Q. I am speaking now for rates of pay for maintenance [fol. 675] of trains as well as way and structures.

A. Maintenance of way and structures?

Q. Rates paid employees of the sugar company. Someone stated about 80 percent of what the railroad pays. I am asking you if your——

Mr. Pettijohn: I think it applied to train crews and I think he said it was somewhat less than the railroads with respect to rates and way and structures.

Mr. Gwathmey: The record will speak for itself.

A. I didn't hear that testimony.

By Mr. Gwathmey:

Q. Do you know?

A. This is the wages paid by the Sugar Corporation and I was under the impression they are comparable with the railroad wages.

Q. That is what I am asking you. Do you know if they are comparable?

A. I haven't made an absolute check to determine that, Mr. Gwathmey.

Q. If it is true that they are at least 80 percent lower as compared with the rates paid by the railroad, then your figure as shown in your exhibit in Exhibit No. 156 of $254,904 would be substantially increased, wouldn't it, Mr. Young?

A. Well, I wouldn't say substantially increased.

Q. Well, you show the first item on your page one of the [fol. 676] ex*jobo*t "labor used in maintenance." Now, am I correct in understanding that that is labor used by the Sugar Corporation?

A. Yes, sir.

Q. In maintenance?

A. Yes, sir, it is.

Q. Now, I ask you if the carriers' wage rates are substantially higher than those paid by the Sugar Corporation, the figures shown on your Exhibit No. 156 would be materially changed, wouldn't they?

A. There would be a change in the ratio. This maintenance is shown on sheet one compared to the maintenance for the like hours of the labor on the railroad.

Q. Because you have taken the maintenance of way and the structures cost to the sugar company and used it as cost for the railroad?

A. That's right.

Q. Now, will you turn to sheet two of your exhibit? You have based your estimated cost for locomotive maintenance on the assumption that the Atlantic Coast Line and Florida East Coast employs only three locomotives in thie service, haven't you?

A. Yes, sir.

Q. On page 4 you include in our exhibit depreciation on five locomotives?

[fol. 677] A. Yes, sir.

Q. Why didn't you compute repairs and costs on basis of five locomotives?

A. This maintenance was based on the use made of the locomotives in the cane service and the repairs cover the wear and tear of the locomotives in the cane service.

The five locomotives shown on the sheet four, allows an extra locomotive on the Florida East Coast and on the Atlantic Coast Line in case of a breakdown in service and you need an extra locomotive to substitute for that one.

Q. Well, isn't it a fact that the Atlantic Coast Line has assigned to the cane service exclusively four locomotives and the Florida East Coast, one locomotive?

A. I couldn't say. I understand that they maintain two locomotives at Clewiston during the can- season on the Atlantic Coast Line for the cane service, and one locomotive on the Florida East Coast.

Q. Well, if you'd used the correct number of locomotives assigned to this service by the Coast Line and the Florida East Coast, your locomotive repair cost would be substantially higher than you have shown on the exhibit, would it not?

A. You are speaking of assignment of locomotives and I am talking about use of locomotives on mine.

Q. All right, sir. On page three of your exhibit you compute transportation expenses. You have used an esti- [fol. 678] mate of sixty cents per train mile in arriving at the cost of fuel for train locomotives, have you not?

A. Yes, sir.

Q. How do you reach the conclusion that the sixty cents per train mile—how did you arrive at the sixty cents per train mile?

A. I took the annual fuel cost of the Atlantic Coast Line, divided it by the total train miles and arrived at the cost per train mile and used that on this as the estimated cost for handling fuel per train mile.

Q. For what period?

A. For the year.

Q. For the year?

A. Yes, sir.

Q. Which year do you have in mind?

A. 1948.

Q. The year 1948?

A. Yes, sir.

Q. Do you know that the average cost of the Atlantic Coast Line fuel for a train mile for freight locomotives for the year 1948 was seventy-five cents and that this takes into consideration both steam and Diesel fuel?

A. I knew this covered a number of variables, but at the time that was the only figure we had that was available to us.

Q. You didn't take under consideration what the Coast [fol. 679] Line average cost for the year 1948 was?

A. Only what we could get. That was the annual report to the stockholders.

Q. That can be computed from the annual report. Do you know the difference between the cost per mile of fuel for steam locomotives and Diesel locomotives?

A. No, but I know there is quite a difference.

Q. Have you included in your transportation cost, costs for dispatching trains?

A. No, that is done by the Sugar Corporation.

Q. What?

A. No, that is done by the sugar company.

By Comm. Patterson:

Q. The sugar company?

A. The Sugar Corporation.

By Mr. Gwathmey:

Q. Do these——

By Comm. Patterson:

Q. Do they dispatch the train?

A. Issue the train order and tell the crews what to do and where to set out cars.

Q. The sugar company has control of the movement of the trains on these two lines, the Atlantic Coast Line and the Florida East Coast?

A. They give each conductor a typewritten sheet of cars he is to pick up.

Q. Are you talking about the movement of the train, the movement of the train itself?

[fol. 680] A. I am a little vague on that point. I discussed that. I don't recall right now what the discussion was. That is the reason we left the dispatch out.

Q. It is not in?

A. No, sir.

By Mr. Gwathmey:

Q. Are you including anything for engine house charges?

A. That is included in the maintenance of equipment accounts o-er here. All of the expenses in transportation directly affected by the equipment were removed from that and put over in maintenance of equipment.

Q. You haven't included that in transportation expense?

A. No.

Q. Have you included anything for coaling and washing engines and other related expenses?

A. Yes, sir, labor. Labor preparing, cleaning and firing locomotives under the maintenance of equipment.

Q. On page 2?

A. Yes, sir.

Q. Mr. Young, are you aware of the fact that the Atlantic Coast Line employs a General Agent at Clewiston at $465 a month during the cane season? Do you know that?

A. I knew they had an agent, a General Agent there. I didn't attempt to proportion the General Agent's expense to that, considering that would be included in the general overhead.

[fol. 681] Q. Why did you not include in your exhibit an allowance for a return on the carriers' investment in road and equipment?

A. That was impossible to calculate what their investment was.

Q. That is a good reason. Do you think that is an excuse for not allowing us to be compensated?

A. Well, you have forty percent margin,—well, 36.4 percent margin in your ratio to compensate for investment and turnover.

Q. According to you- figures?

A. They are overstated.

Q. Do you have any idea as to the amount of the carriers' investment in property used in the handling of cane?

A. That property is used in cane,—I don't have any idea of the investment. I know it is substantial, but on the other hand, it is used for other than cane service and if you try to bring a return on that, it would have to be apportioned between cane service and other traffic and we didn't feel like we could make that apportionment without more substantial figures to work on.

Q. So you just didn't do it?

A. Didn't do it and left the margin that covered that.

Mr. Gwathmey: That's all thank you.

Redirect examination.

By Mr. Hillyer:

Q. Mr. Young, going back to the first item on page one [fol. 682] of your exhibit No. 156: If that actual labor item for maintenance of the sugar company were inflated to cover the difference between the wage scales of the sugar company and the railroads for the crew, would it—how much would it affect that figure? If the wages of the sugar company are 80 per cent of the wages of the railroad, how much would the figure be inflated? Just roughly and in round numbers? Ten thousand?

A. If it were 80 percent, just $3,600.

Q. The other way.

A. That would be roughly around about 15,000 dollars, close to $15,000.

Q. You would add 25 percent to expand that?

A. Yes. Wait a minute. I was working backwards. It would be about $22,000.

Q. No, of $41,000 would be——

A. $41,000? We must not be looking at the same figures. Wait a minute. Excuse me. I've got the wrong page. I was looking at page 2.

By Mr. Pettijohn:

Q. If you assume that the railroad expenses for labor were 25 percent higher than the Sugar Corporation, you would add 25 percent to the figure $41,000?

A. Yes, about $10,000, a little over.

Q. And you'd apply that to all the labor costs where your labor cost was 80 percent of the railroad labor cost? [fol. 683] A. Yes, that would apply on sheet one and sheet two.

By Mr. Hillyer:

Q. But would not apply on sheet three, would it?

A. No, sir, it would not apply on sheet three.

Q. In other words, roughly, it is ten or twelve thousand dollars that might apply?

A. That small difference was more than offset by the overstatement in cost and the inefficiencies of operation that were projected on that that we paid for that could be corrected and they could handle this more efficiently and do it for substantially less money than is shown in the exhibit here.

Q. If that change were made in your final figure on sheet four, it would have only a small effect on the operating ration?

A. Very small percent.

By Comm. Patterson:

Q. If you used—if you improved the operating, there would be no change?

A. That is right.

Q. Do you think that could be done?

A. Sure.

Mr. Hillyer: That is all I have.
Comm. Patterson: You are excused.

(Witness excused.)

CECIL JONES was recalled to the stand and testified further as follows:

[fol. 684] Direct examination.

By Mr. Hillyer:

Q. Mr. Jones, you heard the testimony of Mr. Young about dispatchin- trains?
A. Yes, sir.
Q. Tell us what you would do in regard to dispatching?
A. Furnish written instructions to the Coast Line conductor as to what he is to do on that trip.
Q. Would that otherwise be done by the railroad dispatcher ordinarily?
A. On their trains, it is.
Q. And you do that for them?
A. Yes.

By Comm. Patterson:

Q. Just a minute. That has nothing whatever to do with the operation of the train?
A. Nothing whatsoever as to the actual operation.

By Comm. Patterson:

Q. That is done by the railroad?
A. Correct.

Comm. Patterson: You are excused.

(Witness excused.)

Mr. Hillyer: Off the record.
Comm. Patterson: Off the record.

(Discussion off the record.)

Comm. Patterson: On the recored.
Mr. Petteway: I would like to call Mr. Hinnant back to the stand.

[fol. 685] C. L. HINNANT was recalled to the stand and testified further as follows:

Cross-examination.

By Mr. Petteway:

Q. Mr. Hinnant, do you know how many of the railroads operating in Florida are invited to participate in this proceeding?

A. I don't think there was a one of them that was overlooked unless it might have been Trans-Florida Central and when you say invited—I wrote them indicating that the petition would be filed and said we assumed they desired to join in.

Q. Did you send them a copy of the prepared petition?

A. No.

Q. Were there any of those railroads that failed or declined to participate?

A. If so, I didn't see them. I saw nothing from any of them declining.

Q. In the preparation of your testimony, did you request information from all of the roads operating in Florida?

A. I did not.

Q. Of those that you requested information, did any of those fail or decline to furnish any information?

A. The Georgia Southern & Florida declined to go to the trouble to get up their intrastate movements, such as I included in Exhibit,—in Section B of my exhibit, I believe. Let me see. No, they furnished that. They furnished that. [fol. 686] No, wait. They furnished that for the less-carload, but they wouldn't do it for the carload. But the other information they did furnish.

Q. Have you included any statistical data from the Apalachicola Northern, the Georgia & Florida, the LOP&G, South Georgia, Mariana-Blountstown, or the Trans-Florida Central?

A. No.

Q. Do you find that you are able to meet highway competition on much of your short haul traffic without establishing truck competitive rates?

A. It is according to the traffic, Mr. Petteway. We have not established truck competitive rates on, for example,

pulpwood which is a very heavy moving traffic for short distances, or otherwise. We do find that it is much more difficult to meet competition by truck for short distances at any rates than it is for long distances.

Q. What is the dividing line between short distances and the longer distances at which you can reasonably expect to meet highway competition, in your opinion?

A. Well, that varies also with the character of the traffic.

Q. You mean with reference to whether it is heavily loaded traffic?

A. Usually whether it is traffic that must be trucked for some little distance before it reaches rail and some little distance after it reaches rail, one or the other, or both. [fol. 687] I mean after it leaves the rail.

Q. Now, during the past two years, have you taken full advantage of the increased rates authorized in 162 and 166 and corresponding Florida dockets?

A. To the very fullest extent we know how. I don't mean by that we have not established truck competitive rates or rather reduced the rates on some commodities. Rates are not frozen. They are always in movement to some extent. We have made changes since Ex Parte 162 increase authorized by the Interstate Commerce Commission in just about the same manner we would have made them prior to that or ten years ago.

Q. During the past two years you have made quite a few or have established quite a few truck competitive rates in Florida, have you not?

A. Within the past two years?

Q. Yes.

A. Yes, sir, we have established some. I don't know how many now.

Q. You established some on cement down to Pinellas County points?

A. Yes, sir.

Q. And you have established quite a few on petroleum products, have you not?

A. In the last two years?

Q. Yes, sir.

[fol. 688] A. I thought that freeze order came out about two years ago, sir. We approved quite a few truck competitive rates since then. A few years.

Q. Are you familiar with recent adjustment on road aggregates which resulted in their elimination from this 13 Section proceeding?

A. I am somewhat familiar with that.

Q. That adjustment was voluntarily made by the railroads and approved by the Florida Commission for application in intrastate traffic to become effective on Monday, June 27, of this year, was it not?

A. Did you say inter or intra?

Q. Intra.

A. Intra? I would like to explain——

Q. Well, can you answer the question and then make your explanation, please?

A. Those rates became effective June 27 and we didn't want to put them in. We requested the order be extended as to date until we could get the petition cleared up. The petition as it was filed was in error. It was premature.

Q. The petition as filed was granted, was it not?

A. It was granted and you placed an absolute effective date for the order and we tried to get you to extend that and you declined to.

Q. Will you examine this instrument and identify it, please?

[fol. 689] This is a Florida Railroad and Public Utilities Commission Order No. 1547, Docket No. 1691, dated June 17, 1949.

Q. Is that the order approving that adjustment on road aggregates?

A. It is the order approving the petition and requiring the rates to be published effective June 27.

Mr. Petteway: May we have an identifying number for this, Mr. Commissioner?

Comm. Patterson: It will be 157.

(Exhibit No. 157, Witness Hinnant marked for identification.)

By Mr. Petteway:

Q. Now, will — explain that adjustment, Mr. Hinnant?

A. Explain the adjustment?

Q. Yes, sir.

A. I don't know that I can explain it any more than the

order itself. You've got it in the record now. It shows what it is.

Q. I haven't introduced this, Mr. Hinnant. I have merely identified it.

A. That will be in the record.

Q. Well, will you tell us then what the effect of this adjustment is?

A. The effect of the adjustment is to reduce the rates on road aggregates in Florida in the majority of instances. There are some increases.

Q. There were one or two increases of about one cent?

[fol. 690] A. I think there were more than that and ran up to two or three cents.

Q. Is it true that the general effect of this adjustment is to reduce the rates on road aggregates below the rates which were in effect prior to the increases authorized by the Florida Commission in its Docket 1574?

A. Generally speaking that is true. Some increases, but most of them were reductions.

Q. Do you recall that the Florida Commission in allowing only ten percent increases in road aggregates in its Order 1466-A made the following finding: "The application of the full 20 percent increases to road aggregates would result in loss of revenue to the carriers, rather than an increase. Therefore the emergency increases on road aggregates, carload lots, will be limited to ten percent". Do you recall that finding?

A. Yes, you had that in there.

Q. Now, as I understand your testimony here, the effect of this adjustment will be to wipe out even more than that ten percent which was allowed by the Florida Commission, is that right?

A. To tell the truth, I don't know whether it wipes out quite as much as ten percent or a little more.

Q. Do you recall Mr. Rush's testimony that road aggregates traffic in Florida moves in local intrastate trains and [fol. 691] that those trains are more expensive to operate than the through interstate train?

A. I believe he so testified.

Q. Well, do you recognize any inconsistency in your action in making this voluntary downward adjustment in

rates on road aggregates and the position of the respondents in this proceeding as t their need for additional revenue?

A. I see no particular inaccuracy there.

Q. No inconsistency? You see no inconsistency?

A. No.

Q. I believe your testimony shows that by this adjustment you are giving up something over $700,000 of revenue there, are you not, as compared with the revenue that you would get under the rates which you are seeking here now?

A. That is what it shows.

Mr. Gwathmey: $700,000?

Mr. Petteway: Yes, sir, Mr. Gwathmey, by seven hundred and seventy something thousand dollars.

By Mr. Petteway:

Q. That amounts to more than a third of the increases on the basis of last year's revenue?

A. Yes. It makes it almost necessary to get what increases we can.

Q. It makes it necessary to pass that on to the other shippers, in other words? Are you familiar with your present Florida intrastate rates on petroleum in tank cars?

[fol. 692] A. I am not familiar with that.

Q. Are you familiar with the fact that the carriers are presently engaged in preparing a downward adjustment in petroleum rates?

A. I am with the fact they are looking into it. How far they have gone with it, I do not know.

Mr. Wells: Did you mean intrastate?

Mr. Petteway: Yes.

A. No petition has been filed in Florida so far as I know, yet. I don't know that the petition may be filed. It may be and it may not.

By Mr. Petteway:

Q. Will you turn to page B-3 of your Exhibit No. 12, Line 30, and explain how it is that the present charges of that item are higher than those you are seeking in this proceeding?

A. Off hand, I can't explain it.

Q. That shows, does it not, that the present charges on that item, tin cans moving from Tampa to Florence Villa, carload lots, movement of 24 cars, was something over $400 higher than the charges you are presently seeking?

A. There must be some error in that.

Q. On the same page, please look at lines 49 and 56 and explain why the present charges are the same as those sought in this proceeding?

A. I don't believe I can. It is probably that,—I think it [fol. 693] —I think the Clewiston one,—it seems probably there the maximum increase, four cents, has come into Florida. That is already applicable in Florida and where you reach your maximum, obviously that is under your 20 percent. Obviously we'd get nothing under 25 percent with the same maximum. That must be true with——

Q. Would that same explanation, you don't know, or because of the maximum increase applies, would that same explanation apply to all the other items in your exhibit No. 12 where the present charges equal or exceed thos- sought in this proceeding?

A. No, sir.

Q. Well, please turn to page 4. B-4 and explain why item 6, Tampa to Immokalee, present charges are the same as those sought in this proceeding?

A. Mr. Petteway, I cannot and couldn't possibly keep in mind everything about every movement that is listed in B.

Now, from Tampa to Immokalee, like Tampa to Clewiston, is a good distance an- I imagine in the four cents maximum—that it came into Florida. There is only one instance that I can think of in this exhibit where the explanation given there or my answer would have been, "I don't know" wouldn't apply.

Q. I was trying to get you to say a moment ago. I didn't want to ask you about every one I found.

A. I can tell you only one I can think of where either one [fol. 694] of those situations where I wouldn't give either one of those as my answer to all the questions you might ask of that kind in here, and that is in connection with the rates on phosphate rock from some of the phosphate districts to Jacksonville.

Q. What would your explanation be there?

A. Let's see if I can find that.

Q. It might be on B-15. Would that be on B-15?

A. Some of that is on B-15, I think. I have got some on the Seaboard also. Page B-15 and page B-53.

Q. What is the explanation there?

A. There we published the rate as truck competitive rate basically with an expiration date. When the expiration date came around, we would not extend it, the truck competitive rate, except with the same increase as we had obtained interstate on interstate traffic and that happened, I think, twice and so the rate actually reflects today what the basis rate would be were both the 162 and 166 interstate increases applied.

Q. Do you know of any other situation where that explanation would apply?

A. I don't think there is any other shown in my exhibit and I don't recall any off hand that are not in the exhibit.

Q. Are you familiar with the phosphate movements to dock side in Tampa?

A. Now, if you mean am I familiar with the details of the [fol. 695] movement, I am not. That would be an operating matter.

Q. Well, from a rate standpoint, are you familiar with the traffic moving from the plant there?

A. I am farily familiar with it.

Q. Are you familiar with the phosphate movement to Port Tampa and to South Boca Grande?

A. Fairly so.

Q. Do you know which rates are applied to those movements, the interstate or intrastate?

A. Interstate rates.

Mr. Petteway: That is all.

By Mr. Pettijohn:

Q. Mr. Hinnant, turn to page B-14, of exhibit No. 12, please. Are not the present petroleum rates in Florida intrastate the very rates which the carriers came before the Commission and asked the Commission to prescribe?

A. They are, as I recall it. At least the basic rates are.

Q. Well, aren't the rates themselves the rates that you

asked to prescribe? In other words, didn't the carriers come in at a proceeding and ask the Florida Railroad Commission to reduce the truck competitive rates then in effect so that by adding a 20 percent increase to take care of Ex Parte 162 and a further 20 percent increase to take care of Ex Parte 166, so as to bring the rates as a result of those two revisions practically the same as the truck competitive [fol. 696] rates for distances up to 150 miles?

A. You say as truck competitive or truck rates?

Q. Truck competitive because you adopted truck competitive rates on one time.

A. I am lost there. Bring them up to truck competitive rates?

Q. That is correct.

A. Whose truck competitive? Bring them up to rails' truck competitive rates?

Q. Yes, sir, truck competitive rates fixed way back in 1938.

A. I can't follow that. We did come before this Commission about a year or year and a yalf ago before the Florida Commission about a year or a year and a half ago with a petition to readjust our petroleum rates and it was granted.

Q. Isn't it a fact you came to the Florida Commission just prior to the hearing in Docekt 1574 and made your request so you did not make any specific increase on petroleum products in 1574, which is the companion case to Ex Parte Case 166?

A. You may be entirely correct, Mr. Pettijohn. I just don't recall that.

Q. Have you made any expansions or extensions to prove that the period of four weeks, which is reflected in your exhibit No. 12, represent in any way, shape or manner one thirteenth of the weight or one-thirteenth of the revenue for interstate traffic?

A. In carloads, you mean?

[fol. 697] Q. Yes, sir.

A. I don't know any way I could do that except by going through all of the waybills for the year to test it. Now, I did take a few—I don't recall just what they are now—a few movements where I found record of Coast Line move-

ments as reported to us from your outside people for the year 1948 and looked through the Coast Line terminations for the four weeks' period, test period. This is carload shipments, and found that there it came out fairly even. On blackstrap molasses from Clewiston where we get reports from our own representative, I found that to come out to one of the points, to Tampa, I believe. The movement for the four weeks' period multiplied by 13 was within one car of what we had for the entire year, 1948. One or two others were like that, but I made no other attempt to verify the absolute correctness of 13 times the four weeks' period for carload test shipments.

Q. Even if it came out within one car, it would depend very much on whether the revenue derived from the cars shown in your study multiplied by 13 would produce the revenue for the year. The car itself is meaningless when you discard the distances transported, is it not?

A. We have taker the actual movement here in this four week test period and we have the distance, of course, where the rate is based on distance. Most of them are.

[fol. 698] Q. But you have no place made a study so as to prove by commodities that the number of cars delivered are one-thirteenth of the car deliveries during the year or that the revenue collected during the year or points between which the commodities are transported are typical during the year.

A. Are different?

Q. Are typical?

A. No, because we only picked four week- for our test—that is, the second week in the winter month, second week in the spring month, second week in the summer month and second week in the fall month of 1948 because we believe that would be the most typical period we could take and not burden ourselves over much with all of this detail work.

We had to go through something like 50 thousand pounds to get what is shown in my exhibits B and C.

Mr. Pettijohn: That is all I have.

Comm. Patterson: Any further cross examination?

Mr. Wells: Yes, sir.

By Mr. Wells:

Q. Mr. Hinnant, what is the purpose of this proceeding so far as the Atlantic Coast Line is concerned?

A. To obtain the revenue, additional revenue that we need so bad.

Q. Is it your view that from items 18, 19 and 20 on page 2 of Exhibit 12, that the Atlantic Coast Line will receive any additional revenue from a 15 percent increase on in-
[fol. 699] trastate protective service?

A. I doubt it. I doubt if there is any protective service given in Florida.

Q. You don't know a single car moved intrastate in Florida on which protective service is furnished in 1948, do you?

A. I surely don't.

Q. Will you look at page R-6 of the same exhibit? Where you show an increase in the first three months of 1949 vs. the first months of 1948, 5.35 percent in the percent column in the tons handled by the Coast Line on fertilizer and fertilizer materials. What does that indicate to you?

A. You are talking about the tons handled now?

Q. That is right.

A. It indicates to me that there is that much more fertilizer moved over the Coast Line in the first three months of 1949 than 1948.

Q. Do you know whether that was for fertilizer or fertilizer materials?

A. I would have no way of differentiating that because fertilizer and fertilizer, other than superphosphate, are reported in one group.

Q. And you wouldn't have any idea as to whether that was any change relatively in the interstate and intrastate movements, would you?

A. No.

[fol. 700] Q. Because that is a figure of tons handled within Florida without respect of the characteristic of it?

A. This is tons handled all over the system.

Q. All over the system?

A. That I have on page R-6.

Q. You don't know whether there was an actual decrease with respect to tons handled within Florida?

A. No.

Q. Or actual decrease of tons handled intrastate in Florida of fertilizer and fertilizer materials?

A. No.

Q. Aside from that statistical item, don't you know that most of the fertilizer from the mixing plant in Florida is now handled by motor truck delivery?

A. No, I don't.

Q. You know there is a very large volume of it, don't you?

A. There is and I know all over the sysstem from the small plants that practically all of the shipments of mixed fertilizer is by truck.

Q. Are you familiar with the peculiar sewing existing in the State of Florida?

A. Not too well.

Q. Where did you get an increase of 15 and 23 per cent, how much of the revenue, system-wise on the Coast Line, first three months of 1949 versus the first three months of 1948 on fertilizer and fertilizer materials?

[fol. 701] From what source did I get it?

Q. How did it arise? What caused it to occur?

A. The first increase of 5.35 per cent in the tonnage handled, second, the higher rates from January—well the higher rates throughf the period.

Q. You mean of 1949 vs. comparable——

A. 1949 vs. 1948. And it might have been, it is possible that some of that came from additional increased fertilizer material that moved long distances.

Q. It does not in any sense indicate that the disparity between the interstate level of rates on fertilizer material occasioned by increase of Ex Parte 166 and non-addition of that percentage increase or maximum increase to the intrastate rates within Florida is reflected in that at all, is it?

A. I am not certain that I understand the trend of your question.

Q. Is it your view that the increase in the interstate rate on fertilizer materials and the failure to make the same increase, or Ex Parte 166, on the intrastate fertilizer ma-

terial rate reduced the revenue you are receiving from hauling fertilizer materials in the comparable periods there?

The Witness: Will you read that back?

(The last question was read by the reporter.)

[fol. 702] A. It is my opinion that the failure to obtain the intrastate increase did reduce our revenue on the fertilizer materials.

Q. In what manner?

A. In my opinion, we would have gotten the same or practically the same tonnage of the fertilizer materials to handle and would have gotten higher rates on them.

Q. That is not reflected in any way in the figures to which we have just referred to on sheet R-6, is it?

A. I think perhaps it is. That is why I put this page in there, Mr. Wells. I showed that for the Coast Line as a whole we had a very good increase in our revenue on fertilizer and fertilizer materials for the system.

Q. Well, now will you turn to——

By Comm. Patterson:

Q. Would you mind letting me ask a question? Will you state whether or not the rates on fertilizer and fertilizer materials has been increased in the majority of the states on intrastate traffic, for example, Georgia, North Carolina, South Carolina and Virginia?

A. They have been increased the full amount of interstate increases in North Carolina, South Carolina and Georgia and those increases were in effect in the first three months of 1949.

Q. And are those increases reflected in the 15 and 23 hundredths per cent increase in revenue which you show there?

A. They are.

By Mr. Wells:

Q. Will you turn to sheet R-4, please, and tell us why [fol. 703] with a 22 per cent decline in tonnage handled, May, 1948, under May, 1947, you had a one per cent decline in revenues whereas in June you had a 22 per cent de-

cline in tonnage, but with a five per cent decline in revenue. Do you know what factors entered into that?

A. The only thing I can suggest was differences in the lengths of haul.

Q. And possibly differences in the movement of fertilizer materials as against mixed fertilizer within a state?

A. It wouldn't be altogether within the state. It might be there is more movement of fertilizer materials in June relatively than in May.

Q. But you don't know that?

A. I am not certain.

Q. Now, will you turn please to sheet B-6?

A. Yes, sir.

Q. Do you know whether or not the items on that and the succeeding sheet for deliveries on the Atlantic Coast Line were items of fertilizer or fertilizer materials?

A. It would be impossible for me to say as to each of them. I would think that to the points where there is no fertilizer manufacturing plant, the movement would be more than likely to be mixed fertilizer, although it is not altogether necessary that that be true, but take in this first point, Jacksonville to Alachua, that is probably mixed fertilizer.

[fol. 704] Q. Well, is it your view that the analysis that you have made of the four test weeks showing 146 terminations on the Atlantic Coast Line would indicate that you only had 1898 cars of fertilizer and fertilizer materials terminated at all the stations on the Atlantic Coast Line in Florida during the year 1948?

A. That is an inference that might well be drawn, yes, sir.

Q. That is the assumption you are making by presenting this exhibit, is that right?

A. That is right.

Q. But whether or not the length of haul would be the same on that number of cars during the entire year as represented by the 146 cars there, you have no information whatever on that?

A. Where the length of haul would be the same?

Q. That's right.

A. Well, I don't believe I follow that——

Q. You say, for example, Mr. Hinnant, by using the fig-

ure 146 as the number of cars of fertilizer and fertilizer materials terminating at stations of the Atlantic Coast Line in those four weeks of 1948 indicates to you by assumption that the total termination on stations in the Atlantic Coast Line in the year 1948 would be 13 times that or 1898 cars?

A. That is the inference I would draw from this.

[fol. 705] Q. But you don't know whether the length of haul of the other 16 or 17 hundred cars would be the same as the average of that 146, do you?

A. No, I haven't any idea.

Q. You haven't any idea about that?

A. No, but I assume that when we take a sample like that, spread through the four seasons of the year, with nothing abnormal, so far as I could find, for either of the four weeks period, there must be a pretty true picture of what happens throughout the year.

Q. When is mixed fertilizer used on citrus in Florida?

A. I don't know.

Q. You don't know whether that is the time there would be deliveries of fertilizer from the mixing plant to the citrus grove?

A. No, I would assume that one of those weeks would fit in ther- with at least some degree of accuracy.

Q. Do you know whether that would be the time when the fertilizer would be applied to the celery farms?

A. No, I do not.

Q. You have no information at all as to the actual useage and deliveries and typical weeks in regard to that traffic, do you?

A. I do not.

Q. Mr. Hinnant, in general, is the gross revenue on traf-

[fol. 706] fic within Florida earned on intrastate traffic? About 25 per cent of the gross revenue on traffic happened in Florida.

A. I haven't got those figures before me. The nearest I can come to that is to say that we have figured that Florida intrastate traffic brings in approximately six per cent of our total freight revenues.

Q. You are speaking of the whole system?

A. Whole system.

Q. I am speaking about the traffic handled in Florida?

A. I have made no segregation on that.

Q. If your annual report for 1948 shows that the number of cars of fertilizer and fertilizer materials, commodity class 539 was ten thousand forty-two, in your judgment, would 25 per cent of that be the number of cars handled intrastate within Florida during that year? Or do you know?

A. Are you talking about fertilizer and fertilizer materials?

Q. Yes, sir.

A. I don't believe it would be anything like 25 per cent as intrastate.

Q. Well, let's look at phosphate rock, for example. That is on page B-15. You show at that page a total of 877 cars of phosphate rock terminated at stations on the Atlantic Coast Line. Is it your view that 11,401 or 13 times that figure would be the total number of cars of phosphate delivered at stations on the Coast Line in '48?

[fol. 707] A. It probably would, but let me say something there. We don't include phosphate rock in with fertilizer and fertilizer materials.

Q. I am not talking about that now. I am talking about another figure and I refer you to the fact that the annual report of the Atlantic Coast Line shows that 135,479 cars of phosphate rock were handled by Atlantic Coast Line within the State of Florida for the year 1948. Do you think that consistent with the showing you make there for it as being typical for that class of traffic?

A. I will have to find out first what that figure is you are talking about. Are you including what the annual report shows was handled and delivered in Florida?

A. I am using the figure as shown in the annual report of the cars handled within the State of Florida.

A. Of phosphate rock?

Q. Yes, sir.

A. That includes, of course, all of the port rock, that is going to the port, for movement by vessel beyond and that is not intrastate.

Q. I appreciate that.

A. It originates and terminates as far as rail movement is concerned within the state, but not intrastate, it is not

an intrastate movement and we are not asking it in the increase. Therefore, I did not include any of that in the figures shown on page B-15.

[fol. 708] Q. But what I am trying to get at, Mr. Hinnant, in the absence of any tests made by you to determine the typical nature of what you did put in your exhibit, I am asking whether reference to these other figures in your annual report indicates they are typical or not?

A. I don't think that you can take for certain commodities specific commosities, the figures shown as handled within the State of Flori-a and take a specific percentage of them and that is all the way through, 25 per cent of 20 per cent for this commodity or other commodities and say that would be what we handle intrastate. It is likely to be quite different on each commodity.

Q. As a matter of fact, each commodity, too, as you referred to a minute ago, may be susceptible or more susceptible by movements——

A. According to commodity, distance it moves and whether or not there is long trucking before it reaches the railroad or long trucking after it leaves the railroad.

Q. Will you turn to page B-15, I think it is. Now, you explained to Mr. Petteway a few moments ago that the three items on lines 36, 37 and 38 were occasioned by the fact that there were some rates that you let expire and didn't republish and therefore that the present rates are on the same level as the interstate rate?

[fol. 709] A. You haven't got that quite right. I said they were about to expire and we would only extend the expiration date or republish with a new expiration date based on put-ing into the rate the interstate increase. They did not expire at any time actually.

Q. The rate that was in effect before that time was permitted to expire so that a higher rate is now in effect intrastate, isn't it?

A. It was cancened by the new rate we published. The expiration date did not take effect.

Q. At any rate the rate you used in the computing of present charges for lines 37, 38, 39 on sheet B-15 is at a higher rate than at the time of expiration of Ex Parte 166?

A. I think that is true. In fact, I am sure.

Mr. Petteway: You meant 36, 37 and 38?
Mr. Wells: 36, 37 and 38, thank you.

By Mr. Wells:

Q. Now, there are a great many points throughout your exhibit,—for example on page B-22, lines 2, 3 and five on sulphur,—pardon me, not 2, but lines 3—Line 5. Where the basis sought is exactly the same as the present charges. Do you know what the explanation of that is?

A. Port Tampa to Tampa is virtually a switching charge, is published as a rate, but it is on a per car basis and we obtain, as I recall, authority from that from the Florida [fol. 710] Commission to make the same increase on that per car charge, it is practically the same as Crosstown switching charge between Tampa and Port Tampa, as we did on switching.

Q. Then on lines 2 and 3 on that page, your sought charges are less than the present charges?

A. I haven't the slightest idea how that comes about.

Q. Do you have any knowledge as to how the numerous instances through your exhibit where the present charges and the charges on the basis sought through Ex Parte 166, how that arises?

Exam. Mattingly: He tried to explain to Mr. Petteway once.

Mr. Wells: He explained he knew one situation only, which is the one I just referred to about the phosphate, and he said he didn't know the one item Mr. Petteway asked him about. I am asking about the numerous similar items, if he knows what the explanation is?

A. In some instances like cement from Tampa where it already has the maximum coming in to Florida.

Exam. Mattingly: That is the same, identical explanation he made to Mr. Petteway.

A. There would be no further increase if the percentage had been increased to 25 per cent, because your maximum increase is already there. Now, I don't think it is true with sulphur. You pointed out here on two places where there would be a reduction. I don't believe that is correct.

[fol. 711] I don't believe it could possibly be. But, instances like that, I can't explain. But I just cannot remember all the details of the rates that go into this whole section of the exhibit.

Q. If I understand your exhibit, you don't know what occasioned those situations I asked about. It might have occurred from the thing you explained, but you don't know?

A. It probably did.

Q. Will you turn to page C-16, please. As I understand the purpose of your page C in the C section of your exhibit, do they show comparable movements interstate and intrastate?

A. They show movement of the same commodities interstate and intrastate.

Q. Is there any commodity on ice, other than for ice used by rail lines in providing protective service on interstate service?

A. I doubt very much there is.

Q. If there be any difference in charges interstate or intrastate, those would be paid by the railroads themselved in the performing of other service by the railroad, is that right?

A. That is correct, but let's take that ice, for example, from Lakeland to Belle Glade. There is bound to be a two-line haul. Now, one of those roads at least would get some increased revenue out of it.

[fol. 712] Q. Which would be chargeable against the performing of the protective service for which the shipper pays all the railroads participating in the haul?

A. No, sir, not chargeable to protective service. Nothing additional is collected from the shipper on account of ice.

Q. You didn't try to do that in Ex Parte 166?

A. We tried to get some increases in prices but we don't charge the movement of the ice to the shipper.

Q. In other instance-, you show Mulberry, Florida and Panama City, Florida, as comparable destinations for sulphuric acid. Is there anything comparable about those two destinations? Page C-2, Line 7?

A. No, they are not close together and I stated in Exhibit 11 that usually where we found a shipment of the same commodity to the same destination interstate and intrastate,

that was shown. Other cases, we use some other destination in Florida, generally one that was in the same vicinity. Now, that seems to be an exception.

Q. Then is the title sheet, page C-1 in error where you say "moving to same or comparable Florida destinations"?

A. No, I don't think it is in error.

Q. Well, I understood you to say a minute ago you picked some other Florida destination, regardless of whether it was comparable.

A. I said generally they were in the same vicinity. This [fol. 713] one here on the sulphuric acid, Panama City and Mulberry are not comparable. They are both in Florida and both use sulphuric acid.

Q. In one case fertilizer and in the other, for making paper, is that right?

A. That is right.

Q. And in both cases, the movement there would be in interstate commerce, wouldn't it?

A. From where to where?

Q. The sulphuric acid comes from East Tampa. Isn't that an import?

A. No, sir.

Q. Is it made there?

A. Made ther-, yes, sir.

Q. You wouldn't expect a shipment from Mobile to Mulberry if the sulphuric acid was available at Tampa?

A. Some times it moves for quite long distances.

Q. Because it is not available at closer points?

A. It probably is.

Q. On page C-28 you have shown some potash moving from Miami to some point in Florida. Is there any potash produced in Miami?

A. Of course, there isn't.

Q. That would come in by ship probably from some other source, would it?

[fol. 714] A. This was not an import as far as I know. It certainly was not an import movement.

Q. It would be interstate at any rate?

A. It came into Miami by rail or by water and was stored there and moved ou-.

Q. The same thing would be true of the castor pomace movement. That has been an accidental movement or move-

ment where the commodity had originated in New Jersey, wouldn't it?

A. Yes, I think most of the castor pomace is imported through Jersey ports.

Q. Well, Mr. Hinnant, on page C-13 and 14 and 15 you show a number of individual shipments intrastate from various points in Florida to points in Florida and interstate to various points in Florida under the caption fertilizer and fertilizer materials?

A. Yes, sir.

Q. Can you tell me whether or not there is any item under your interstate movement of other than fertilizer materials not available at any point within Florida?

A. If you will take the first item under fertilizer and fertilizer materials, shown on Page C-13, line 18——

Q. Yes, sir.

A. Valdosta, Georgia, to Alachua, Florida, 102 miles, that is undoubtedly mixed fertilizer.

Q. You are sure it is not fertilizer materials?

A. I don't know of any fertilizer materials shipped from [fol. 715] Valdosta.

Q. But you don't know what that particular shipment was you showed?

A. No, and I don't know what is moved from Jacksonville to Alachua, fertilizer or fertilizer materials. It is just as likely to be fertilizer or fertilizer materials from one as the other.

Q. You don't know if any of the comparable items you show on those sheets to which I have just referred are competitive to each other in movement or not?

A. I only know they are under list as reported to the Interstate Commerce Commission as fertilizer and fertilizer materials.

Q. On Page 57 of your Exhibit 11,—pardon me. It is page 47, Mr. Hinnant. You make the statement that the rates within Florida were revised effective January 21, 1941 on the same basis as was observed elsewhere in the South except to the Florida East Coast points and to points within the East Coast territory that you have described and that the Florida East Coast rate included in Ex Parte 123.

A. That East Coast Rate did not, but The Coast Line and Seaboard stations, I believe it did.

Q. There is some difference between classed scale shown on sheet H-4, I believe it is of your exhibit 12. At any rate, the fertilizer rates, between the lower East Coast destina-
[fol. 716] tions on the Seaboard and the Coast Line and the destinations on the Florida East Coast as the 123 increases, is that true?

A. That is right, locally on the Florida East Coast.

Q. Now, do you know of any reason why if a shipment of fertilizer or fertilizer materials were going to be made from Jacksonville to West Palm Beach, for example, why,—and in this proceeding this has been excluded by motion of the carriers, any increase so far as the Florida East Coast local scale is concerned. Do you know of any reason that shipper would move at a higher rate by the Seaboard?

A. From Jacksonville?

Q. Yes.

A. It wouldn't.

Q. And do you know of any reason why—take a point ten miles out from Jacksonville,—where the combination would apply under the rates for the movement when destined to a point on the Florida East Coast instead of the Florida East Coast scale, do you know any reason why that shipper should have to pay a 25 percent increase when the shipper in Jacksonville shipping local on the Florida East Coast would not have to pay any increase?

A. You said something in the first part of that question about a combination. There is no combination.

Q. I am thinking about joint haul.

Q. You are thinking about combination haul?

[fol. 717] Q. Yes, sir.

A. You are asking why a man shipping from this point on the Seaboard——

Q. With a 10 mile haul to get to the Florida East Coast.

A. Should pay 25 percent higher? That is rather hard to answer, sir. If it were interstate traffic there would be no undue discrimination. There would be discrimination, but not undue because both factors are not in the hands of the one road or two roads together.

Q. Here are the same roads that are proposing that adjustment. So suppose you go ahead with the explanation of the question I asked.

A. No, Seaboard Air Line has control of the rates from

points on its line. It has no control over rates of the Florida East Coast. There may be a situation or set-up whereby the Seaboard Air line would have to take some action to meet that competition set up by the Florida East Coast.

Q. You will be perfectly frank, won't you Mr. Hinnant, in agreeing that situation would be intolerable?

A. I rather think it would be.

Mr. Wells: That's all.

By Mr. Overton:

Q. Mr. Hinnant, will you turn to section D?

Comm. Patterson: Let's take a recess of ten minutes.

(A recess was taken for ten minutes.)

[fol. 718] By Mr. Overton:

Q. Mr. Hinnant, the comparison shown on page D-2 and D-3 of your exhibit No. 12, Line A, if I understand correctly, you increased the rates which were effective in Florida in January of the year 1929, ten percent to reflect an increase authorized by the Florida Commission about 1938. Is that correct?

A. That is right.

Q. And then you have used that line A as the basis comparison for the present rate, line D?

A. That's right.

Q. The Florida Commission never did have before it the scales shown in Line A to consider a proposal, a increase on those rates of ten percent?

A. The rates were not in effect when that 123 increase came along. They had been superceded by 1314, 494.

Q. So they were never considered by any regulatory body?

A. It is in comparison with the rate level as of 1929, put up to the rate level of 1938. The rate level of '29 was actually in effect for many years.

Q. The scales shown on page D-14 to D-16 inclusive, of exhibit No. 11, opposite the letter "B" reflect as I understand it your porposed rates. The explanation is on page D-17?

A. That is what I am looking at. That is correct.

Q. Do you propose that the rates shown opposite Line B applied on classes 1 to 7 on traffic governed by the classification and the exceptions?

[fol. 719] A. Page D-17—Page D-13 through D-17 run only to the docket 13,494 system of rates and that system of rates is now applicable only in connection with exceptions ratings.

Q. Then your explanation on page 17 of the Exhibit 11, page D-17, should be corrected to read that B is the level governed by exceptions ratings only?

A. Well, I have no objection to that being shown on page 17, but I think it is inherent from the title page when it says Docket 13,494, intrastate class rate docket 494, system of class rates has no application. Now in connection with the rates to apply on commodities where the rating on the commodities was obtained from the classification proper.

Q. Well, now, am I correct in assuming then that the rates shown on page D-19 and D-20, column D, are the rates proposed by the carriers in this proceeding? Note 3. On page D-16.

A. That is explained, I think, very fully in the Note 3. The column D rates shown on page D-19 and D-20 are those which we seek to have applied in alternation with column C rates in connection with the classification pro ratings.

Q. Now, with reference to that alternation, sir, I intentionally did not refer to Column C because I hoped we'd shorten this. Isn't it true that the column C rates shown on page D-19 and D-20 by note 3 reference to that as proposed to be alternated with the column D rates on those pages exceeds the column D rates in every single instance?

[fol. 720] A. As shown on page D-19 and D-20, it does. But as I explained somewhere in my testimony——

Q. We will reach that point, sir.

A. In Exhibit 11 between North Florida points and South Florida points there are instances where rates that correspond with Column C on page D-19 and D-20 would be lower than the Column D accordingly.

Q. For a moment, to shorten this discussion as to where it might occur within Florida and we will disregard this for the purpose of this question and limit the application of your proposed basis of rates to hauls wholly within Peninsular Florida, which means Florida south of Seaboard Air

Line from Jacksonville to Chattahoochee, the territory in which the arbitrary applies for the total haul. In that territory, Column D would always be the applicable rates?

A. On classes one through seven inclusive, governed by straight classification, column D would always be the rate in Florida.

Q. Isn't it true also, the rate you are porposing in South Florida is governed by the exceptions ratings?

A. That is correct.

Q. You're proposing exactly the same basis on both classes, one through seven? On interstate traffic in the South and on intrastate traffic between points in North Florida non-arbitrary territory, is this a correct statement? [fol. 721] Since June 30, 1946, the rates governed by the classification ratings have been reduced ten percent, increased 20 percent and under your proposal would be increased 25 percent?

A. As governed by straight Southern classification rate.

Q. That is correct. Those rates?

A. Your statement is correct, except in one respect. They were reduced ten percent in the June 30, 1946 level, increased 22 and one-half percent and increased 25 percent.

Q. I thought that is what I said. Now, under your proposal as set out in Column D, in page D-19 and 20, on rates in the Florida Peninsula you would propose that the Florida rates, since June 30, would be increased 20 percent and 25 percent. Isn't that correct?

A. On classes 1 through 7, yes.

Q. Therefore you are here proposing and requesting the Interstate Commerce Commission to apply greater increases in South Florida than in any other place in the South?

A. I don't—yes, we are and I have gone into that rather carefully in Exhibit 11 and explained why we took the Florida arbitraries off class 1 through 7 in connection with docket 13,494.

Q. Regardless of that explanation, sir, it is true that although the docket 28300 order and the order in Ex Parte 162 issued by the Interstate Commerce Commission with reference to that 28300 interim adjustment required that the effective rate as of that date be reduced ten percent

[fol. 722] and increased 22 and one-half percent in South Florida. That was not done, isn't that correct?

A. The Interstate Commerce Commission order in 28300 did not pertain to intrastate rates.

Q. I agree, but the order did read that you should reduce the going rates ten percent and increase the result of that reduction 22 and one-half percent?

A. That is correct.

Q. And that is what you did in North Florida?

A. Let me go a little farther; there were other instances where carriers of railroads had in their interstate adjustments reduced the class rates to meet truck competition and there the carriers obtained authority to make no reduction on the interim 28300. I have in mind, I believe, rates from Owensboro, Kentucky, to point on the border of the Ohio River.

Q. Chicago-Indianapolis is another, but we are talking about Florida. Here is the point I was trying to make where a similar situation occurred in connection with interstate rates, petition was made to the Interstate Commerce Commission to accept those rates. Now, intrastate we didn't have to make petition to the Florida Commission or to the Interstate Commerce Commission to accept those rates. We went ahead and did what we were trying to do interstate—and the order of the Florida Commission which [fol. 723] under attack in the 14 section proceeding required that you treat South Florida in exactly the same manner as you treated North Florida, isn't that correct?

A. They required that we waive the arbitrary in connection with the first seven classes, whether they were reduced or not.

Q. Mr. Hinnant, of course, the order speaks for itself, and I believe it is a part of this record.

Mr. Petteway: 1466-C. I asked leave to furnish that.

By Mr. Overton:

Q. The order make no reference to waiving the arbitraries. It prescribed a treatment of classes 1 to 7 then effective and provides for increasing them, isn't that correct?

A. I will not try to argue with you.

Q. Apart from all discussion, the final result, I believe you admitted you are proposing to increase rates to classes 1 to 7 governed by the classification ratings, more in percentage and more in cents per hundred pounds in North Florida than you have increased those rates throughout the Southeast?

A. True, and trying to make those rates the same as we have interstate in South Florida today.

Q. Mr. Hinnant, on your Section B of Exhibit No. 11, am I correct in assuming that——

Q. What page?

A. Entire section B,

[fol. 724] Comm. Patterson: That is in Exhibit 12.

By Mr. Overton:

Q. I misspoke. Exhibit 12, I should have referred to. Am I correct in assuming that the columns headed present charges throughout that section reflect not the charges actually collected on those particular movements there set out, but reflect the charges which would apply if those shipments had moved today?

A. You are right.

Q. And column basis sought purports to show the charges if the increases you are here seeking are granted?

A. Correct. We wanted to get this so as to reflect the charges as of today, not as of the time the shipment moved and make comparison with the rates we are asking the Interstate Commerce — to prescribe.

Q. You have no assurance as to the portions of those movements or that some of those movements would even move on the rates today; isn't that correct?

A. I lost the word.

(The last question was read back by the reporter.)

A. Well, we have no assurance, of course, that any traffic we handled last year, we will handle again. Usually we find that we do handle it again, but we have no assurance that we are going to get even the rates that were in effect last year. The first part of last year. The same movements over again. We constantly find that we lose certain traffic

[fol. 725] to trucks. Sometimes we get that traffic back without changing the rate.

Q. And for example, on page B-4, line 24, you show 12 cars of cement moving from Tampa to St. Petersburg and if you will accept my computations, you show the present charges on the basis of 19.2 rate.

A. That is page 4, line 24?

A. Page B-4, line 24.

A. Now, what was the last observation?

Q. That you have shown the present charges on the basis of 1-.2 per hundred pound rate?

A. I can't tell without figuring it out. You say if is right. I accept your word.

Q. As a matter of fact, that rate today is ten cents per hundred pounds, isn't it?

A. There was a truck competitive rate put in on cement from Tampa to St. Petersburg.

Q. And even that truck competitive rate has not been able to obtain any of the package cement. It is still on the highway isn't it?

A. I haven't seen the reports, sir.

Q. So that you have no assurance that the basis sought would move this same relative traffic either?

A. The same cement?

Q. Any of the commodities of Section B?

[fol. 726] A. No, we believe it would, but we don't have any assurance.

Q. I am trying not to repeat or repeat similar situations, but I would ask you to turn to page C-5. And in your comparisons of intrastate and interstate movement, with your knowledge of the State of Florida, would you agree with me that the canned goods movement there shown are probably one hundred percent citrus?

A. I will make a slight reduction in the one hundred percent. Yukon origin on line 25 is probably not citrus, but some canned goods owned by the Navy, isn't it. It would probably be surplus property moving down there from Yukon.

Q. Generally that is the movement there shown.

A. I'd say perhaps 90 percent of that is canned goods. I would think from Jacksonville,—I see two things from Jack-

sonville. It is quite likely to be other kinds of canned goods.

Q. And the interstate movements from these northern and out-state origins would be canned vegetables and canned fruit not produced in commercial quantity for canning in the State of Florida?

A. It would probably be. None of this interstate movement into Florida is canned citrus fruit. There are all kinds of canned goods, table sauces, canned vegetables, pickles also usually come in that catagory. Now, I'd say that probably 90 percent of the movements shown as intra-[fol. 727] state would be citrus and I believe that is correct, but there are canned vegetables produced in Florida. There is a canned pork and beans production in Florida and that is from Tampa. I notice two movements from Tampa. They may have been pork and beans, vegetables, citrus fruit.

Q. Tampa produced a substantial amount of canned citrus and nothing else in canned goods?

A. I said they produce canned pork and beans. I have had claims on shipments from there.

Q. It is news to me if they produce it, but I won't argue with you. On page C-6 and C-7, you make comparisons of movements of cement from Tampa as compared with out-state points.

You are familiar with the fact that in the year 1948, particularly in the West Coast of Florida and on the East Coast of Florida, this was a tremendous building program?

A. 1948?

Q. Yes.

A. Yes, there was good building.

Q. And the Tampa mill literally could not produce cement to supply its own area?

A. That is probably true.

Q. And I looked very carefully through your list, but apparently you didn't have the right weeks. That hunger for cement in 1948 was so bad that they reached clear to New England for cement, isn't that correct?

[fol. 728] A. I will let you make the statement.

Q. Under the normal conditions and normal use, a majority of the cement will come from Tampa, will it not?

A. I don't think Tampa has ever been able to produce all the cement that is used in Florida. There's always been a large movement of cement outside of Florida into Florida.

Q. On that, there is one other point I'd like to ask you about. At the present time if there is discrimination in the intrastate adjustment as against the interstate adjustment applicable to cement, who is being discriminated against? The Florida receiver or the shipper outside the state?

A. I'd say the one that pays the freight.

Q. And that is the Florida receiver under the present conditions, isn't it?

A. I really don't know how cement is sold, whether it is sold f.o.b origin or destination.

Q. I believe this record shows what the mill price is and the buyer pays the freight rate.

A. That is true since the cement decision of the Supreme Court, or whatever—. Regardless of who pays the freight, if it is the shipper who pays the freight, and he purchases from the point that is favored with the lower rate, the manufacturer of the cement at the prejudiced point is going to feel that just as much as if he had himself paid for it.

Q. On page O-5 of your exhibit No. 12, you make compari- [fol. 729] son of the common brick scales in Florida with the interstate scales. Isn't it true that as to the common brick rates interstate in the South, since in the Commission's decision in Ex Parte 166 you have readjusted the common brick rates so that generally the increase since June 30, 1946, is materially less than the increase authorized by the Interstate Commerce Commission?

A. The only adjustments I recall on the common bricks are that we reestablished the relationship of 80 percent to the uniform brick price rates.

Q. And as shown in Exhibit No. 145 that resulted in a materially less increase than authorized by the Interstate Commerce Commission?

A. I don't have the exhibit before me, but it will speak for itself.

Q. Mr. Hinnant, on page C-17 of your Exhibit 12, C-17 and C-18, you compare some intrastate movements of lime with some interstate movements of lime. I note under the interstate column a number of movements from Ohio points. Are you familiar with the fact that the movement of lime from those Ohio points is almost entirely builders' finishing lime which is not produced in Florida?

A. The movement of lime from Ohio is practically one

hundred percent a much higher grade of lime than is produced within the South, Florida or elsewhere in the South. [fol. 730] Q. I notice you compare, or list, rather, interstate shipments of lime on page C-18, from Keystone and Longview, Alabama, to Orlando, Florida, as compared with a movement from Jacksonville. From the Alabama producing points to the South Florida destinations, except points intermediate to St. Petersburg, Florida and Clearwater, Florida, your interstate basis of rates is a combination of proportionals on Jacksonville, Florida. Isn't that correct?

A. Right.

Q. And materially higher than the Southern lime scale?

A. Correct.

Q. And materially higher than the scale prescribed by the Commission from those same origin points from St. Petersburg and Clearwater, Florida?

A. Higher than that level, yes.

Q. So if there is any discrimination, it is in the rate adjustment and not in this small increase of five percent. Isn't that correct?

A. The Florida rates on lime are so vastly different from interstate rates that it is hard to say who is discriminated against in the basic rate. What we are asking for here is the additional five percent revenue.

Q. I have studied your exhibit 12, Section Q, Mr. Hinnant. Although I could find no section of the text referring to it in Exhibit 11, and I only have this one question to ask of [fol. 731] you with reference to the column headed G, showing the computation of the freight revenue per mile of road in Florida vs. the entire system. I am correct, am I not, in assuming that the basis for that computation was an assignment of Florida of revenue passed on the mileage haul in Florida?

A. That is *ture* to the extent that the movement was interstate and there had to be alloaction.

Q. I should have made that additional classification in my question, sir. My question is whether the interstate revenue is assigned to Florida on the basis of a straight mileage prorate?

A. Yes, it is. My I say on that point that nearly as I can determine from study of our recoreds, somewhere between

70 and 75 percent of the tonnage which originates in Florida terminates in Florida so far as the rail haul is concerned.

Q. You make that statement, Mr. Hinnant as a result of a study, do you?

A. I say from my observation. I have made considerable study of it. I don't have it here.

Q. Have you studied the results of a waybill analysis being conducted by the Commission, and particularly quarterly, determining for state by state for 1947 and '48?

A. I have made some analysis of some of them that have come out and I am not willing to rely on them in the slightest.

Q. They would indicate a different percentage, would [fol. 732] they not, Mr. Hinnant?

A. They indicate, the last I saw, indicated the percentage of 68 in Florida as originating and terminating in the State of Florida.

Q. That was for all commodities or lumbers?

A. All commodities.

Q. And that was the third quarter of 1947?

A. I don't recall now which quarter it was for, but I said my observation, it ran from 70 to 75 percent. The Commission figures, as I recall it, showed 68 or 68 and a fraction.

Q. For one quarter?

A. Yes.

Q. And if you total it for the year, I think you will find a difference, sir, but that is not part of this record.

Mr. Overton: I believe that completes my cross examination.

Mr. Maurer: I have just a few questions.

By Mr. Maurer:

Q. Would you mind telling me how you arrived at the rates that are shown in Section 12—Section C, rather, of your Exhibit 12 as to intrastate traffic?

A. How I arrived at the rates?

Q. At the rates shown under Column five? Perhaps if I ask another question it might simplify it. Did you take the actual rates that were charged or from your waybill analy-

sis? Did you merely fill in the rates that would apply as-
[fol. 733] suming that the traffic was intrastate traffic?

A. Perhaps it would have been better if it showed at the bottom of each page from C-2 through C-35 that the explanation of reference marks A and B is shown on page C-36. We use the present intrastate Florida rate.

Q. Paying no attention whatever then to whether or not the traffic actually went beyond the point shown here?

A. Wait a minute.

Q. For example, turn to page C-5. And while we have discussed already something relating to the canned goods movement, can you tell me whether that traffic actually stayed in Jacksonville or whether it was transit traffic that was stored in Jacksonville and later moved out of Jacksonville at the through interstate rate from point of origin?

A. We have a storage for canned goods at Jacksonville, and it is possible some of them, some of this may have moved, possibly some may have moved out under transit—possibly none may have moved out under transit. I have not looked up the record to find out.

Q. And if any of it moved out on transit to points beyond Florida, then these would not be the applicable rates, would they?

A. They would not be the rates that would be finally assessed. They are the rates that would be charged on the first inbound movement.

[fol. 734] Q. Now still in connection with these canned goods, the movement from Dade City to Pensacola by the Atlantic Coast Line, that also is an interstate route, isn't it, Mr. Hinnant?

A. By the Coast Line, it is. Just a minute. Well, anyway, this section B doesn't show the route movement, but it was intrastate. It went intrastate route. We eliminated all that. We showed movement by an interstate route between South Florida and West Florida.

Q. Are we to understand then that anything from the Atlantic Coast Line in Florida moving into West Florida is not included but the shipments are those of other lines?

A. Where you find in Section B or Section C for the intrastate movement any commodity moving from Chattahoochee or west thereof to a point in East or South Florida, or

in the reverse direction, according to the billing that we had, when we listed the shipment, the movement was by intrastate route.

Q. Mr. Hinnant, on Sheet 12, of your Exhibit, you show——

A. What letter of the page?

Q. C-12 of your Exhibit 12, you show creosote oil. Did you make any investigation to determine whether or not that creosote oil was actually imported creosote oil moving to Gainesville and was not intrastate oil at all?

A. I did not. I cautioned our commerce Department [fol. 735] which prepared this under my direction to throw out as intrastate any shipment that could be identified without going back and making a search. That is, identified from the delivery freight bill. As coming in to a Florida port by water and moving out on the inferstate rate and I asked at least two times if they had been careful to do that and I was informed they were very careful about it.

Q. Isn't the American Lumber and Creosoting plant at Gainesville located on the Atlantic Coast Line Railroad?

A. It is.

Q. Wouldn't movement from Jacksonville to Gainesville be local to Coast Line on traffic destined to that plant?

A. Practically so.

Q. Do you know of any creosote oil that is manufactured at Jacksonville?

A. I do not.

Q. As to the next item, cross ties, did you make any investigation to determine whether or not those cross ties were moving to Jacksonville for creosoting and reshipment beyond?

A. No, I did not.

Q. You know, of course, that the plant of Eppinger & Russell draws in cross ties to its Jacksonville plant and reships to interstate points on a transit basis, do you know?

A. I think I do, whether from every one of these points, I [fol. 736] am not sure.

Q. They draw pretty generally from all points in the state?

A. I think they do.

Q. It is quite likely, therefore, in rerating this traffic you

overlooked the fact some of this traffic could have been destined beyond and has no place in the exhibit?

A. Some could, but I have been advised by Eppinger-Russell that they some times find on this movement from Florida origin into Jacksonville and reshipment beyond on the state that it pays them to use the intrastate rate in and the local rate out and not use transit.

Q. On Sheet 14 and 15—I will skip that. Mr. Wells covered that. On page C-28 of your Exhibit No. 12, you show the movement of pulpwood from various points to Fernandina, Florida, as compared with in the interstate movement of pulpwood to Fernandina. Is that correct?

A. That is correct.

Q. What rate do you show from Lanier, Georgia, to Fernandina, Florida?

A. I show a rate of 396 prefixed by the letter "u". Let's see what the letter "u" means. That is rate per unit of 168 feet.

Q. And that is for a distance of 150 miles, is it not?

A. That is right.

[fol. 737] Q. And rates from Longwood, Florida, to Fernandina, according to you- exhibit, for 135 miles, the present rate is 535.8 cents per unit. Is that correct.

A. Correct.

Q. In other words, the rate for identical distances from a Georgia point on an interstate shipment is substantially lower than the rate you show for intrastate movement from Longwood, Florida?

A. It is and should be.

Q. Why?

A. Movements from Lanier to Fernandina are single line. The line bringing that in on a very low rate obtains the outgoing haul. Longwood is a point on the Coast. When we handle we have no opportunity to get outbound business.

Q. You don't participate in outbound business to Fernandina?

A. That is correct.

Q. To no extent whatsoever?

A. We might get something that moves to local points on the Coast Line but that is all. No common points.

Q. Does that apply to the business of the Rayonier Corporation and Container Corporation of America?

A. I think so.

Q. You get no business from those points to common points?

A. So far as I know, we do not.

Mr. Maurer: If you will just bear with me a moment. I [fol. 738] am culling out a lot of stuff as we go along.

Mr. Overton: While Mr. Maurer is checking, I crossed this off my notes because I talked to Mr. Hinnant about it and I wonder if I could just ask one question?

Comm. Patterson: All right.

By Mr. Overton:

Q. Mr. Hinnant, with reference to the rates shown under Column B on page D-22 and 23 of Exhibit No. 12, under the 8, 10 and 12 class. Mr. Hinnant, I believe I suggested to you that a check by me indicated that those rates were apparently erroneous and suggested that I request you to recheck them and if they were wrong, you would ask the privilege of filing a correct page to this exhibit, or corrections for the exhibit, whichever way you chose. Will you undertake to do that for us?

A. Gladly. I think they are right, but if there is any error in it, I want to get it correct.

Mr. Overton:

Q. That is why I checked them out of cross examination. I think they are wrong.

A. That is 8th class under column B?

Q. For the 8th class, 10 and 12th class.

A. For 8, 10 and 12?

Q. Correct, sir.

Mr. Overton: That's all.

By Mr. Maurer:

Q. Mr. Hinnant, will you please turn to section G, the section dealing with the rates on pulpwood. On page 2 and [fol. 739] 3 of Section G, do you make some comparison with the rates on sand and gravel, etc.?

A. Yes, sir.

Q. Are those rates that are in effect today under this latest compromise that you discussed?

A. Yes, sir. Well, we don't have interstate rates in effect on compromise basis yet on Florida rates.

Q. I understood that whether in effect or not of these rates that you and the receivers or shippers have agreed upon as the new rates on road aggregates.

A. They are not and I would like to explain why I have got them at the present interstate level. I don't—that is—I didn't know until Saturday before I left here that these rates would have to go in in Florida, effective the 27th, nor did the publishing agent. I made this statement up a long time back and I couldn't change it on that short notice. I had to leave Sunday and even if I had known it, I would have compared it with *it with* D 295 because that is even lower than the commission found to be reasonable for sand and gravel and crushed stone in the docket No. 17517 scale.

Q. But it is not the scale of rates that the shippers and carriers agreed upon as being necessary to hold this traffic to the rails, is that correct?

A. As I tried to say a while ago in answer to, I believe, Mr. Petteway's question, the filing of the petition to amend [fol. 740] road aggregates with the Florida Commission was wholly premature. The program was to find out first if the different state Commissions would authorize the changes to that scale and if they did, put it in effect interstate and intrastate all over the state at one time. Now, filing that petition with the Florida Commission was a mistake in the way it was filed, at least.

Q. That scale is substantially lower than the rates you show in this exhibit?

A. Somewhat lower than that. I don't have in my mind how much lower. I do know this: That there are some points in that new scale where the rates are higher than they were in Florida before June 27.

Q. Mr. Hinnant, I notice on sheet G-4 of your exhibit No. 12 you make reference to Interstate Commerce Commission Docket No. 14883.

A. Which page, please?

Q. Sheet G-4. Do you know of any pulpwood that moves on that scale?

A. I understand there's still some rates within eastern trunk line that do move on that scale. Practically all of them in the East have been reduced to what is known as the Bailey scale, which is about 70 percent higher than the Roanoke Rapids.

Q. Isn't it a fact that docket 14883 applies in the same [fol. 741] territory as Bailey scale applies in?

A. 14883 scale was prescribed as I recall from points in Maryland, District of Columbia, and Delaware, and Pennsylvania and West Virginia. Points like Lute and Piedmont, West Virginia, York, Pennsylvania and so forth, adopted rather generally by the eastern road for application elsewhere throughout trunk line territory.

Q. Generally speaking, hasn't that scale been superceded by the so-called Bailey scale prescribed in the West Virginia case?

A. Generally. I thought I said so.

Q. Isn't it a fact that the Bailey scale provides for single line application and joint line application with the addition of half a cent in the basic scale, which has now become about one cent?

A. I believe it is a joint line and a single line scale different from the Bailey scale.

Q. But the Roanoke Rapids does not apply in any instance as a joint line scale, does it?

A. No.

Q. Now, the Atlantic Coast Line Railroad has applied the Roanoke Rapids wood scale to Jacksonville, Florida. Is that correct?

A. That is with the understanding that we will get the proper ratio of outbound tonnage of the manufactured [fol. 742] product.

Q. Do you recall when that was established?

A. Do I recall when it was established?

Q. Yes.

A. Shortly after the Florida Commission had required the application of the Roanoke Rapids scale as increased under Florida Commission's order to correspond to Ex Parte 162, 163 to Palatka, Florida, Coast Line origin.

Q. After the Florida Commission had issued its order in the corresponding 166 case was it not?

A. It was after 166-S. I think it was before 166-C.

By Mr. Petteway:

Q. You mean 1466-A, B and C.

By Mr. Maurer:

Q. Isn't it a fact that Atlantic Coast Line Railroad voluntarily established the Roanoke Rapids wood scale to Jacksonville on exactly the same basis that it applied to Jacksonville via the Seaboard Air Line Railroad?

A. That is applied via the Seaboard?

Q. Yes.

A. That is correct.

Q. And that was after the commission had issued its decision in the Florida counterpart of 166, was it not?

A. After it issued its decision in the Florida counterpart of 166 interim decision. I don't think it was after the counterpart of the final 166.

[fol. 743] Q. Well, you made no attempt to put in the interstate basis to Jacksonville, did you?

A. No.

Q. You put in the same level that was applicable to other paper mills in Florida, known as Roanoke Rapids wood scale, when for single line application?

A. With the distinction and understanding we would obtain the outbound hauls of the products manufactured from that woodpulp.

Q. Isn't that the same understanding you had with all the pulp mills to which you voluntarily established this scale of rates?

A. Where voluntarily established, but not where the Florida Commission ordered it.

Q. And you have no transit provision in connection with these rates or the rates to points where you establish them, based on so-called gentlemen's agreements, do you?

A. We sometimes have the specific transit arrangements on it. Other times, we don't. For example, Brunswick, Georgia. From interstate origins some of the rates are not published subject to specific transit rules and regulations. Others are.

Q. Well, do you know whether or not any of the mills in East Florida have specific transit rules applicable on the movement of pulpwood to these mills?

[fol. 744] A. East Florida?

Q. East Florida, yes, sir. I mean the Fernandina mill, Jacksonville mill or Hudson mill?

A. No, until the Florida Commission issued its order as to Palatka. There was transit in connection with the Coast Line, voluntarily established rates to Palatka.

Q. Did those rates ever go into effect?

A. Yes, sir.

Q. But the Seaboard or Southern have never put them into Jacksonville or Fernandina as far as you know, have they?

A. The Seaboard has never put in transit rules to Fernandina, or Jacksonville. Southern Railway has never put into Jacksonville. If the Southern has any published rates to Fernandina, I don't know it.

Q. They have combination rates to Fernandina?

A. Combination, yes.

Q. I just have one other section here.

Mr. Maurer: It probably wouldn't take me over two or three minutes if you want me to go ahead?

Comm. Patterson: Go ahead.

By Mr. Maurer:

Q. Mr. Hinnant, in your exhibit 12, on page B-8, you show some rates on lime in bulk from southern points to Southern Florida destinations. I have made a quick computation and find that the average weight of the 11 shown there is something over 69,000 pounds per car. Do you [fol. 745] agree, or would you accept that figure?

A. Yes, it looks like it.

Q. Just in round figures. It is certainly over 60,000 pounds, isn't it?

A. Yes.

Q. Will you turn to your exhibit 12, pages O-7 and O-8. That exhibit, if I understand it, compares the Florida intrastate rates on lime with the interstate scale applicable in Southern Territory, is that correct?

A. With the interstate scale, subject to minimum weight of 38,000 pounds.

Q. Does not the Southern scale also carry a minimum weight of 50,000 pounds?

A. It does with rates about 80 percent of the scale rates which are subject to the 30,000 minimum.

Q. Doesn't your exhibit indicate that the average weight on lime in Florida is in excess of 69,000 pounds?

A. These that we have on the Coast Line deliveries do. Over 50,000 pounds average on the East Coast. Now let's see what the Seaboard's got. Yes, they are higher on the Seaboard also.

Q. Wouldn't the proper comparison then be with the rates based upon the 50,000 southern scale minimum rates?

A. It is very easy to make that comparison if you take 80 percent of the rates shown on page O-7 and O-8 as the [fol. 746] *the* interstate rates. I mentioned that in my testimony in Exhibit 11.

Q. Isn't it a fact by taking 80 percent of the rates shown under 30,000 pound minimum that if you take a percent of those rates you will arrive at rates that are generally lower than the present rates in Florida?

A. You probably would on that comparison. That is, in North Flroida. But, at least, there would be some arbitrary added for South Florida. The U. S. Commission in the Dann-Gerow authorized 25 percent arbitrary for the South Florida haul.

Q. Perhaps I misunderstood the purpose of this comparison. I thought it was made to indicate the low level the Florida rates had.

A. It was made to indicate that what we are asking the Interstate Commerce Commission to give us here will not put the rates above comparable rates interstate.

Q. Would you be willing to give Florida the interstate scale of rates on lime based on a 50,000 minimum?

A. We have seven times contacted the lime producers in Florida with the proposition to substitute for the present Florida lime scale, the Southern Lime Scale plus the arbitrary and they don't want it. At least each time we have contacted them, they have not wanted to let go their minimum weight of 24,000 pounds. They are very anxious to get the reduction to 60,000 minimum, but they are not willing to take the increase on 24,000 and the increase from [fol. 747] 24,000 to 30,000.

Q. Actually, the issue applied to Southern scale with

minimum of 50,000 pounds. You'd bring a reduction from the Florida rate?

A. Probably would; I don't know how far that would be—how far that would go if we had the arbitrary in South Florida.

By Mr. Petteway:

Q. I have one question. On page C-29 of your exhibit, Column 1, lines 18 to 27, inclusive, are those origin points on the Coast Line and if so, how do they move to Port St. Joe, intrastate?

A. I believe everyone of those are origins on the Coast Line. I don't recognize Iris. I don't know where that is. The others are Coast Line origin. It may be that they went over three-line combination. You notice three-line combination for quite a while has produced lower rates to Port St. Joe from quite a number of points than our interstate rates.

Q. Don't you as a matter of fact route most all of that interstate?

A. Yes, we can.

Comm. Patterson: We will recess until 7:15.

(At 5:15 p.m. a recess was taken until 7:15 p.m. of the same day.)

[fol. 748] Evening Session

Exam. Patterson: You may proceed, gentlemen.

C. L. Hinnint resumed the stand and testified further as follows:

Cross-examination (Continued)

By Mr. Ribe:

Q. Mr. Hinnant, will you please refer to B-39, your exhibit No. 12. Beginning with line 1 on B-39 you list for the period certain shipments of resinous wastewood to Pensacola, Florida. Over in the bottom right hand corner is the figure [illegible],523.47. It is that which, as I understand,

purports to represent the revenue which would have accrued to the railroads on basis of the increases which they are now seeking——

A. That is what that purports to be.

Q. That is based on the assumption the traffic would have continued to move at these rates?

A. Yes, sir.

Q. Have you made any investigation as to whether it will continue to move by rail by the rates sought, as at this proceeding?

A. I have not. This is made on practically all L&N traffic. I think every origin here is west of Chattahoochee, Florida, and I have only taken here the movements as reported by the L&N and are rerated.

Q. When you say practically all L&N, you mean terminated by L&N and that is what you mean by that expres-
[fol. 749] sion?

A. That is right and I don't see a single origin that I can recognize east of Chattahoochee. Some are joint line. Panama City and Blountstown, and I believe Altha takes joint line.

Q. Do you know what railroad Altha is located on?

A. It seems to me Apalachicola Northern or Marianna and Blountstown.

Q. Are you in position to tell us if either of those railroads have put in testimony in support of this petition and the increases you are seeking?

A. No, I have heard absolutely nothing from them, one way or another.

Q. Are the railroads here seeking to have the Interstate Commerce Commission prescribe rates on Florida intrastate traffic which will produce freight charges higher than the charges of interstate traffic to and from Florida?

A. Not generally. In some instances we are. For example lime where the Florida rates go below and above the 30,000 pounds interstate Southern scale we are asking that the full increases be put on that. Now on the wastewood, I am not too familiar with the level of the rates to Pensacola from this origin territory.

Q. Well, let's phrase it this way: As a general proposition as to commodities brought in Florida, intrastate and
[fol. 750] interstate traffic to and from Florida, is it the

purpose of the carriers here to seek additions to the rates which will result in rate levels on any commodities which will be higher than on interstate traffic?

A. I do not understand that.

Q. On pages 1, 2, and 3 of your exhibit No. 11 you traced this history of the proceeding before the Florida Commission. You recited the original hearing and various parties to the rehearing as to the exceptions which the Florida Commission made in granting these increases. You mentioned four hearings after the original hearing held by the Florida Commission in response to various petitions for rehearing. Can you tell us why at those four subsequent hearings after requesting a rehearing the carriers did not put in any evidence of any character purporting to prove the reasonableness of rates they were seeking to Pensacola, Florida?

A. No, because that would be within the province of the Louisville and Nashville and I don't know why they did not put in evidence on rates on wastewood. I know as far as rates to Gainesville and Jacksonville, evidence as to such rates was put in.

Q. Do you know whether or not the intrastate rates on resinous wastewood from Georgia origins to Brunswick, Georgia, are higher or lower than interstate rates from origins in Florida to Brunswick, Georgia, and for simplicity, I will confine it to Georgia and Florida on Atlantic [fol. 751] Coast Line Railroad?

A. From Atlantic Coast Line Railroad in Georgia and Florida, Brunswick is materially lower than Brunswick to Pensacola.

Q. I asked you from origin on Atlantic Coast Line in Georgia to Brunswick, Georgia, whether those rates were higher or lower than the rates from Florida origins to Brunswick, Georgia?

A. The rates from Georgia are from Georgia origin to Brunswick, Georgia, on wastewood—those rates received only a five percent increase under Ex Parte 123. That was by reason of order of the Georgia Public Service Commission which only granted a five percent instead of a ten percent interstate from Georgia to Florida. Those wastewood rates were increased ten percent, authorized by the increase

under Ex Parte 123. Since that time the increases intrastate in Georgia and interstate from Florida to Georgia have been the same.

Q. So that the rates today from Atlantic Coast Line or-gin from Georgia are still approximately five percent lower than from Atlantic Coast Line or-gin from Florida to Georgia?

A. They are five percent.

Q. How long have Georgia intrastate rates been lower than the interstate rates? Approximately?

A. I think they have always been lower.

Q. They have been lower for a long, long number of years?

A. Yes, we finally put in from Gainesville, Florida, as [fol. 752] intrastate from Georgia to Brunswick, to alternate with normal Florida scale and in so doing, by error, increased those rated under Ex Parte 123, which was after 1938.

Q. All this long period of years that Georgia intrastate rates on resinous intrastate rates have been lower than interstate from Florida origin to Brunswick, have the carriers ever brought any Thirteenth Section Case for the purpose of raising them to interstate level?

A. No, sir.

Mr. Ribe: That's all.

Comm. Patterson: Further cross examination?

By Mr. Hillyer:

Q. Mr. Hinnant, isn't it true that railroads sought reconsideration of the Florida Commission's order with respect to lumber rates?

A. It is.

Q. Isn't it a fact that case is still pending awaiting hearing after all these years?

A. After all these years. The last hearing was 1943 and we haven't had a decision.

Q. Have you ever asked for further hearing or a date to be set?

A. We have asked them from time to give us a decision.

Q. It is not pending further hearing?

A. Three or four years after to give decision.

Q. You didn't ask for another hearing?
[fol. 753] A. No.

Mr. Hillyer: At about the close of Mr. Hinnant's testimony and the testimony of Mr. Hinnant and others I moved to strike certain portions of his exhibit on the ground apparently they went to reasonableness per se of rates on many specific commodities adjustments, which commodity adjustments were not named in the complaint and as to which we had no notice. Mr. Hinnant's exhibits are filled with individual rates on many specific commodity adjustments. It has been absolutely impossible to me to make a study and analysis of these rates.

In issue in this case is the fact that the Interstate Commerce Commission allowed an increase of 25 percent generally, with exceptions, that the Florida Commission allowed only 20 percent with exceptions generally. The only issue is to whether the Florida Commission should have allowed 25 percent instead of 20 percent increase and the reasonableness of particular rates is not a matter to be considered in a general revenue case.

I will renew my motion to strike or not to consider Mr. Hinnant's exhibits and testimony with respect to phosphate rock, tin cans, plaster, gypsum lath, sulphuric acid, asphalt, pulpboard and paper boxes, brick, insecticides, lime and livestock.

I moved also to strike that portion of testimony with respect to meeting of competition of routes along interstate [fol. 754] routes with shorter intrastate route as having no place in a proceeding of this kind. It is not mentioned in the proceeding.

I have had practically no time to go in detail in Mr. Hinnant's exhibit. Others have cross examined him at great length and I prefer to stand on my objection.

Mr. Gwathmey: I have previously stated our position. I presume it is unnecessary to state it again.

Comm. Patterson: Any further cross examination of this witness?

(No response.)

Comm. Patterson: If not, you are excused.

(Witness excused.)

Mr. Maurer: Mr. Commissioner, Mr. Wolford presented some exhibits and testimony in direct examinatio- and some exhibits.

Exam. Mattingly: Do you want to cross examine Mr. Wolford? Just say so and we will have him right up here for you.

Mr. Petteway: Before beginning a cross examination, I'd like to make inquiry. Do I recall correctly that the petition was made a part of this record and is considered a part of this record?

Comm. Patterson: That's right.

Mr. Petteway: I want to call attention to an error in the [fol. 755] petition. I think Mr. Gwathmey will agree with me. It is an error on page six and it says parties are authorized to make the increases—referring to Ex Parte 166 increases,—in Florida case effective May 16, 1947, whereas the order which is appendix one shows effective date March 16, 1947.

Mr. Gwathmey: The error will speak for itself.

Mr. Petteway: It is in the record and I want to show that was March 16.

W. W. Wolford was recalled to the stand and testified further as follows:

Cross-examination.

By Mr. Petteway:

Q. Mr. Wolford, it has been the practice of the carriers, has it not, in the various phases of Ex Parte 162 and 166 proceedings to file petitions with the Florida Commission similar to those filed with the Interstate Commerce Commission and at the same time request the Florida Commission to defer action on those petitions until after the Interstate Commerce Commission had rendered its decision?

A. I think so.

Q. Now, on page 3 of your Exhibit No. 13, that is your narrative statement, in the first paragraph, did you mean to infer that you received a ten percent reduction on your Florida intrastate class rates August 21, 1947 as a result

of the reduction under Interstate Commerce Commission docket 23400?

[fol. 756] A. No, it refers to Southern Territory as a whole. That refers to all traffic within the—it refers to all of the traffic covered by Dockets 2800 within Southern Territory and interterritorial covered by that. In other words, by and large, it was a ten percent reduction.

Q. Did you not in 1935 or 1936 remove the Florida arbitraries on Florida intrastate classes one to seven to meet Florida motor truck competition?

A. About that time, yes.

Q. Now, with reference to the emergency increases on Florida intrastate rates in Florida Docket 1538 which corresponds to Interstate Commerce Commission Docket 162, you had the benefit of the full emergency increases on all traffic, with no exceptions, from July 1, 1946, effective date of interstate increases to March 16, 1947, did you not?

A. We had it between the filing of the Ex Parte 148 part of the case beginning July 1, 1946. That stayed in effect until the first interim decision in 162. I don't remember—January 1, 1947, I think.

Q. I am speaking about Florida increases granted you effective July 1, 1946?

A. Well, that was the Ex Parte 148 increases, was it not?

Q. That was Florida Docket 1538 and they were in effect until the following March 16th?

A. They were in effect until such time as you granted a [fol. 757] greater increase. I don't have the date in mind that you granted it.

Q. So that when the emergency increases ended, they were replaced by the 20 percent increases?

A. That is correct, subject to exceptions that were made in that decision, of course.

Q. So that during the first five months of '47, which is the five month period covered by your exhibit 14, you had advantage of either the emergency increases or the 20 percent increased granted by the Florida Commission?

A. During a part of that time, we didn't have it during all of that time, either one or the other. It was six percent during part of the time.

Q. It was 20 percent during the rest of the five months' period?

A. Yes, sir.

Mr. Petteway: That's all.

By Mr. Pettijohn:

Q. On page 2 of your narrative exhibit No. 13, you say that the over-all effect of these increases estimated by the Seaboard to produce overall average of about 17 and a half percent on interstate traffic. Is that 17 and a half percent applicable to Seaboard business or was that percentage as was estimated for the Southern Region?

A. As I recall it, the figure that we arrived at is for our own traffic and was in the neighborhood of 17 and a half [fol. 758] also.

Q. You handle little coal traffic?

A. Quite a bit.

Q. But compared to the L&N and the Southern, you don't handle very much?

A. Compared with those two perhaps we don't, but a tremendous amount of revenue is derived from coal.

Q. Would an increase on coal have the same bearing on the Southern District as it has on Seaboard?

A. I take it that the coal traffic, increase on coal, would tend to depress by Southern and L&N more than Seaboard, if that is the answer to the question.

Q. I ask you if that would tend to depress as much on Seaboard as on the Southern Region as a whole?

A. I wouldn't know.

Q. On page 3 of your exhibit 13, the third paragraph, I'd like to have you explain what you mean by: "Of course, if it were possible to separate the interstate traffic and revenues—" Why is it not possible?

A. What page?

Q. Third paragraph, page 3.

A. I don't think it is.

Q. You do separate intrastate and interstate revenues, don't you?

A. In an arbitrary manner.

[fol. 759] Q. Do you mean to say that revenue allocation interstate and intrastate is arbitrary?

A. I don't know of any purpose that I use it for that it is separated. Our commodity statistics don't separate it.

Q. Don't the annual reports?

A. No.

Q. You are one of the Seaboard witness in Docket 1574, which is companion to 166, put in intrastate in each of the Southern States and on interstate, if Ex Parte 166 were applied across the board?

A. Well, that would require going through the list of individual commodities and calculating a percentage or the effect of the maximum increase on each commodity and in an effort to get increase applicable intrastate versus interstate. And the size of that task would be greather than would be justified for the purpose I am using it here for.

Q. You don't so confine it. You say "if possible." I want to know why it is impossible to separate revenue tons and tons miles between interstate and intrastate?

A. Perhaps it is possible, but I didn't do it.

Q. On page 4 of Exhibit 13 you make some comments with respect to pulpwood. You say the Florida Commission authorized a nine percent increase under Ex Parte 162. Do you know that there was considerable reduction in the amount of pulpwood handled by the Seaboard Air Line [fol. 760] immediately after that decision?

A. No, sir, I don't know that.

Q. Do you know what effect your 20 percent increase had under Docket 1574, the interstate docket Ex Parte 166?

A. On pulpwood?

Q. Yes.

A. Reducing tons?

Q. Yes.

A. It didn't have any startling effect. It didn't come to my attention if it did.

Q. I will ask you if you know anything about the railroads coming to the Florida Railroad Commission the morning the hearing in Docket 1574 commenced and asking them to adjust the rates on petroleum so they wouldn't have to make exceptions on increases on petroleum rates?

A. Did I know anything about that?

Q. Yes, sir.

A. I don't recall about it. I am not questioning your word it was done. But I don't recall.

Mr. Pettijohn: That's all, thank you.

By Mr. Maurer:

Q. Mr. Wolford, in connection with your exhibits 15 you make certain comparisons between the present intrastate rates on pulpwood in Florida and the scale prescribed by the Interstate Commerce Commission in Docket 14358, which you refer to as the Covington scale. Where does that [fol. 761] scale have application today?

A. I am under the impression from what I have heard in prior testimony that scale has been superceded by another scale since it was prescribed. So if that is what you mean, I am not contending it is in effect in entirety or part.

Q. Aren't you mistaken? The scale which has been superseded is the scale that operates in certain of the northern states? The 14588 scale, I believe it is referred to in Mr. Hinnant's exhibit. The Covington scale according to the exhibit has application as a joint line scale between points in Virginia, North Carolina, South Carolina, Tennessee, Georgia and Covington, Virginia?

A. Yes, you are right. I was thinking about the scale in Georgia, Virginia and West Virginia they have on another exhibit.

Q. I will ask you again, do you knew where the Covington scale is used today?

A. Whether that scale is shown there is still in effect?

Q. Whether it is in effect today, yes, sir.

A. No, I don't know whether it is still being used within the territory where it is prescribed.

Q. Wasn't the purpose of this exhibit to show the rates on pulpwood in other states other than the Roanoke Rapids wood scale?

A. To show pulpwood scale is a reasonable one with [fol. 762] comparison with other rates and the question of whether those rates are in effect isn't dealt with in any testimony.

Q. Do you think it is a good comparison to compare current rates with rates non-existent where the agent change in those rates has not been made by the decision of the

Commission, the original rates having been applied by the Commission? Do you know what rates apply to paper mills in Virginia, such as Covington and Bigeland, Virginia?

A. From North Carolina, for example?

Q. From points in Virginia, for example.

A. No, I don't.

Q. Or from points in North Carolina?

A. If this scale isn't still applicable, I don't know what rates are.

Q. You are showing the going rate between pulpwood and rates which you don't know whether are in existence today or not and you have no information as to whether or not they move any tonnage?

A. The comparison is a scale prescribed by the Commission and that scale has not been superceded by any subsequent scale prescribed by them.

Q. You mean no subsequent scale has been prescribed by them?

A. No, sir.

Q. You have had the Roanoke scale in effect from various points in Florida to Jacksonville for many years, have you [fol. 763] not?

A. Yes, sir.

Q. Do you maintain any transit in connection with those rates?

A. No.

Q. Has the Seaboard been satisfied with the return to the Seaboard of outbound products from the mill at Jacksonville?

A. So far as I know, we have. I am not too familiar with it.

Q. You haven't found it necessary to provide any transit privileges on that movement?

A. No, but to the extent that the mill there may use water, I am sure we are dissatisfied with that.

Q. You wouldn't want to secure from the mill any tonnage more than the tonnage represented by the pulpwood you bring into the mill?

A. We would like to. I don't know we would argue that we wanted no more.

Q. That would be beyond the scope of the gentleman's agreement wouldn't it?

A. Yes.

Mr. Maurer: That's all.

By Mr. Overton:

Q. Mr. Wolford, would you turn to page one and page two of exhibit 19?

A. Yes.

Q. As I understand it, you are there comparing present [fol. 764] intrastate rates and the proposed intrastate rates on cement on the one hand with rates on cement prescribed in Docket 15806 in the particular decisions cited on Exhibit 132, ICC 627?

A. I think that is correct.

Q. Is this correct: That that scale with which the present and proposed Florida rates are compared is not effective on cement in the South either on interstate or intrastate traffic?

A. Are you speaking of the original scale now or of the scale increased?

A. I am speaking of the comparison you have made, the application of the original scale to points in Florida as you have compared them on your exhibit?

A. Speaking of only Florida now?

Q. Yes, sir.

A. This scale as shown in Column 7 to 12 is not the scale as is in effect in Florida today because the way it is built up there beginning with the basic scale and full Florida arbitraries was changed as I described in testimony in Exhibit 13.

Q. And the change is not in the basic scale, but entirely in the application of the Florida arbitraries?

A. Correct.

Q. And that was authorized by the Interstate Commerce Commission?

[fol. 765] A. That is correct.

Q. Do you submit the destination point shown on Exhibit 19, pages on- and two, as typical shipments from Tampa?

A. It is a fairly full list of destinations. I haven't checked it over any movements or test period, but I would think it was fairly representative.

Q. Would you accept my count of it showing of the exhibit that to the fifty destinations there shown the proposed basis in Florida would result in increases to only seven destinations?

A. You counted those from this exhibit?

Q. Yes.

A. That is all right, I accept your count.

Mr. Overton: That is all. Thank you.

Comm. Patterson: Any further cross examination?

(No response.)

Comm. Patterson: Redirect?

(No response.)

(Witness excused.)

E. C. Hicks, Jr. was recalled to the stand and testified further as follows:

Direct examination.

By Mr. Gwathmey:

Q. You submitted certain testimony as to which cross examination was reserved. Are you prepared for cross examination now?

[fol. 766] A. Yes, sir. Before I undergo cross examination, I should like to ask that reference be made to the foot of exhibit 50 and that the two blank numbers be filled in with the exhibit numbers. Where the letter "N" appears, exhibit No. 44 should be inserted and where the letter "D" appears, exhibit No. 33 should be inserted.

Comm. Patterson: Strike out N and D.

Mr. Gwathmey: Off the record.

Comm. Patterson: Off the record.

(Discussion off the record.)

Comm. Patterson: On the record.

Mr. Petteway: I want to defer my cross examination of Mr. Hicks until after Mr. Hillyer has finished on sugar cane proceeding and I probably won't have any cross examination then.

Cross-examination.

By Mr. Hillyer:

Q. Mr. Hicks, on pages 1 to 12, inclusive, on Exhibit 29, is it not a fact that all of that ancient history deals with the situation when the sugar cane was hauled under a trackage agreement and entirely by the motive power of the sugar company?

A. It's been some little while since I dictated that. I will accept your word for it. I don't remember how the historical narrative goes by page number.

Q. Have you any actual knowledge of the reported con- [fol. 767] versations which went on during that period which are narrated in about the first twelve pages of the exhibit?

A. You mean was I present?

Q. Yes.

A. No.

Mr. Hillyer: I move to strike all that portion of testimony dealing with the history concerning the trackage agreement which existed for a period of years. It is wholly immaterial and irrelevant and on the grounds the witness has no knowledge of the facts stated and a reading will show on its face it is mostly hearsay and reporting conversations between people not here and conversation which Mr. Hicks admits he did not hear.

By Mr. Gwathmey:

Q. Mr. Hicks, am I correct in understanding all this is based upon figures of Atlantic Coast Line records and figures of the company which are accessible to you?

A. You are and I may say very minute memoranda were made for the benefit of the files by those who attended the meetings and not only have I carefully examined all those memoranda and correspondence pertaining thereto, but I have obtained contracts themselves and read them carefully.

Comm. Patterson: Overruled.

By Mr. Hillyer:

Q. Do you have the files here?

A. I have sections of them. I don't believe I have the

[fol. 768] sections going as far back as that, but I can get them.

Q. In this early history——

A. Excuse me. I thought I had included enough of the history so the files would not be necessary. I didn't think you'd want additional information. That is the reason I didn't bring all the files in the service.

Mr. Hillyer: The objection is made not only on the ground of hearsay but on the ground of immateriality in a case of this kind, a general revenue case. I understand the motion to strike has been overruled?

Comm. Patterson: Right.

By Mr. Hillyer:

Q. Mr. Hicks, throughout about the first half of your testimony, is it not a fact you deal considerably with a matter of rates on Cuban sugar by water to Savannah in connection with rates on sugar cane in Florida?

A. We deal with them to the extent sufficient to show that the rates——

Q. I just asked didn't you refer to that subject on a good many pages, a good many of your pages in your testimony dealt with that subject?

A. It was made with the idea in mind——

Q. I am not asking what idea you had in mind. I am asking if there is not a lot of testimony on that in that exhibit?

A. Not a good deal. I want to tel- why——

Q. I didn't want to know why.

[fol. 769] A. No, I didn't find——

Q. The exhibit will speak for itself.

Mr. Hillyer: I move to strike all the testimony about Cuban sugar moving by water to Savannah as not having anything to do with fates in Florida on sugar cane or anything else.

Mr. Gwathmey: The testimony to which Mr. Hillyer is referring relates to the history of these rates on sugar cane and purports to show the circumstances under which the rates were established in and subsequently maintained for this purpose. I submit they are relative to this inquiry which involves reasonableness of rates as well as discriminations of the Interstate Commerce Commission.

Comm. Patterson: I will overrule the objection. The Commission will give whatever weight it deserves when it comes to consider it.

Mr. Hillyer: Do I understand there is any issue between the rates on Cuba one one hand and rates on sugar cane on Lake Harbor to Lake Okeechobee rates to Clewiston on the other hand. That objection is on the ground of hearsay and reading the text will support the validity of that objection. Throughout matter is stated by conversations which quite obviously Mr. Hicks was not present at. It is not something he is familiar with personally.

By Mr. Hillyer:

Q. Mr. Hicks, on page 48 and 55 and a half, I believe you [fol. 770] dealt at quite a great length with rates on sugar cane in Louisiana. Do you know anything about the actual movement from sugar cane, from your own personal knowledge and observation in the State of Louisiana?

A. Yes, I do.

Q. Have you been in that region and watched the movement of that traffic?

A. Yes, sir.

Q. When and how many occasions?

A. Let's see. I think the first time was in the shipping season of 1947-'48 and was also down there about three or four weeks ago.

Q. What was the extent of your observation?

A. I have seen them loading the cane in the cars. I have seen the cars on the siding loaded with the cane. I have been to some of the mills and walked around the mills and observed the track layouts and locomotives that the mills use in spotting and respotting and switching the cane. The intraplant movements. I have seen the tractors and motors they use in moving the cane around. I have observed the scales on which the mills weighed the cane. Just general observation of the whole operation.

Q. I take it then you are quite sure you are familiar with the observations you have reported in your testimony?

A. Yes, sir.

[fol. 771] Q. Do you know how many sugar mills there are in the State of Louisiana?

A. Well, counting the large and the small ones, quite a number. Some are inactive; some of them produce only syrup. But there are quite a number of them.

Q. Isn't it a fact that there are a great many small mills in Louisiana?

A. Yes, sir.

Q. Isn't it a fact that their capacity is small?

A. The capacity of the small mills is small.

Q. Yes. You have set out some mileage scales of rates here. Do those apply for trainload movements?

A. Well, the rates are not subject to a minimum number of cars per train, but the movement goes in large cuts of cars.

Q. They are not trainload rates, are they?

A. No.

Q. Isn't it a fact you can go around many of those mills and not find any operation similar to the one between Canal point and Clewiston, Florida?

A. Well, I don't know exactly what you mean by similar. That is a matter of degree. I don't think you will find they are identical but there are differences. For example, some of the mills out there have their trim roads that they use in bringing their own cane to the mill and it is not hauled by common carrier railroad.

[fol. 772] Q. That scale of rates wouldn't apply, would it? The rates published by the common carrier would not apply to movement by the industry over its own trim road; there would be no necessity of assessing a railroad charge?

A. That's right.

Q. Do you know of your own knowledge of any specific instance in Louisiana where there is a movement such as that southeast of Canal Point where sugar company's engines with an intermediate line haul by common carrier and all destination services performed by the sugar mill itself?

A. You have tied a whole lot of things together. Most of the mills do perform movement by what you call terminal service. Nothing more or less than intrastate spotting service. We deliver those cars to the sugar mill on the receiving track and after that, just as it is done in

many mills, the respotting service is done by their own intra-mill operations.

You, of course, understand it only a part of the United States Sugar Company's movement that is brought up to the railroad origin by the industry's own trim road. The rest of that sugar cane is brought to the railroad siding by other conveyances and is there loaded on railroad cars.

Now, I don't believe there is any instance in Louisiana in which cane is brought by the industry trim road to a railroad siding and there loaded on the railroad cars. Most of the trim roads out there are narrow guage roads and therefore there would be no movement of a standard rail-
[fol. 773] road car to the common carrier railroad. So in that one respect there may be a slight difference, but I don't think that is material.

Q. Do you know of any mill in Louisiana where the scales you have set out here apply where there is any such enormous movement running around over 9 hundred thousand tons to a million tons a year, such as this?

A. Various of those mills out there have a very, very substantial tonnage, but as I said in my direct testimony included in Exhibit No. 29, there is no single mill that has a movement of the volume that the Clewiston mill does. I said that was about the only difference between the situations in the two states.

Q. Pages 56 to 57 of your exhibit 29 discuss the question of how much cane it takes to produce so much sugar or something to that effect. Is that right?

A. I believe it is the following page that treats with that. I believe it begins on page 58.

Q. Well, I was referring to the Louisiana State University sections and the exhibit 47 as to the cost of procuring enough cane to produce 100 pounds of sugar and so on, in that general connection.

A. I thought you had reference to Exhibit No. 48, I believe it is, showing the respective sugar producing capacity of that in Florida and Louisiana cane?

[fol. 774] Mr. Hillyer: I move to strike those portions of Exhibit 29 on the ground that they are immaterial and irrelevant to the issue in this procedure. I may point out there is no allegation here or no proof any competition whatso-

ever exists between a mill in Louisiana drawing sugar cane from Louisiana into the mill compared with the sugar cane in Florida moving into Clewiston. I don't understand there is any issue there between intrastate commerce in Louisiana and intrastate commerce in Florida.

Mr. Gwathmey: May I ask a question?

Mr. Hillyer: Yes.

Mr. Gwathmey: Is it your understanding in a 13 Section case there is no obligation on the railroads as to reasonableness of intrastate rates which they are asking the Interstate Commerce Commission to order into effect?

Mr. Hillyer: Are you talking about a 13 Section case or a general increase case?

Mr. Gwathmey: I said 13 Section case such as this one.

Mr. Hillyer: I construe this case brought under 13 as being confined solely to the question of ascertaining a general increase in general revenue case authorized by the Interstate Commerce Commission. Whether the State of Florida should have less increase. According to my understanding of the case, that is ~~the only~~ issue here.

Mr. Gwathmey: Do you understand the issues here are [fol. 775] determined by the carriers or by the Commission's order of investigation?

A. By the carriers' petition.

Mr. Gwathmey: I have nothing more to say.

Comm. Patterson: Overruled. The Commission will give the testimony the weight it deserves. The Commission's order of investigation, of course, is what we are trying it under.

Mr. Hillyer: Yes, sir. The order of investigation is somewhat broader than the petition in its terms. I thought sure reading the two together, they related to that question.

Comm. Patterson: They relate to other questions rather than general increase. Discrimination and things of that sort.

Mr. Hillyer: I understand the issue is confined to class rates as to whether they should be increased 25 percent instead of 20 percent. I did not understand that level class rate was involved in this proceeding other than to the extent I have mentioned. That is my interpretation of the Commission's order based on the petition.

By Mr. Hillyer:

Q. On page 39 to 45 of the text, roughly, but I want to identify the subject, you discuss the matter of carload minimum weight at length. Is that correct, Mr. Hicks?

A. I believe they are the pages on which that is discussed.

[fol. 776] Q. That may not be accurate.

A. I discussed it in my testimony.

Mr. Hillyer: I move to strike all this portion of the testimony where it goes minutely into the question of carload minimum rates on the ground that the question of carload minimum rates cannot be involved in a 13 Section case of this kind based on a plea for more additional revenue. And on the further ground that the question is at issue at another proceeding before the Florida Commission and there is no allegation in that petition as far as I can read it of any discriminiation on the part of the Florida Commission against interstate commerce as to the carload minimum rates on sugar cane.

Comm. Patterson: That is overruled. If we were going to strike all the testimony in this case that wasn't definitely connected up with the issues here, we wouldn't have much testimony left.

Well that is a particular subject which is under a complaint in a particular issue before the Florida Commission in a different proceeding which has no relation to this, as I see it, no relation to interstate commerce.

Mr. Gwathmey: You don't think that minimum carload minimum weight has any bearing on the reasonableness of the rate?

Mr. Hillyer: It certainly isn't at issue in a case of this [fol. 777] kind, as I see it. It wasn't raised by your petition on interstate by any carload rate of sugar cane, because there is no movement interstate. While the objection may seem technical, I don't want to prejudice the case before the Florida Commission by having that projected into this proceeding, a technical case of that sort projected into this proceeding. I am going to stand on those objections and there will be no use of my entering into any minute or particular cross examination of this witness.

Comm. Patterson: Mr. Petteway, did you want to cross examine?

Mr. Petteway: No, sir, I have no cross examination.

Comm. Patterson: You are excused.

(Witness excused.)

Mr. Gwathmey: I am not exactly certain where we stand, but I believe that completes the cross examination of the witnesses whose cross examination was deferred. We, of the respondent railroads——

Comm. Patterson: Do you have some rebuttal?

Mr. Gwathmey: The cross examination was deferred——

Comm. Patterson: Do you have some rebuttal testimony to put in?

Mr. Gwathmey: We may.

Comm. Patterson: We will take a ten minute recess.

(A recess was taken for ten minutes.)

[fol. 778] Fred Pettijohn was recalled to the stand and testified further as follows:

Direct examination.

By Mr. Petteway:

Q. Are you familiar with the order the Florida Railroad Commission entered last week with reference to road aggregates which has been identified as Exhibit 157?

A. Yes, sir.

Q. Will you identify that as this order?

A. I do.

Mr. Petteway: Mr. Commissioner, we offer the document which as already been identified as Exhibit No. 157, we now offer in evidence and request leave to supply copies for the record.

Comm. Patterson: Let it be received for the record.

(Exhibit No. 157, Witness Pettijohn received in evidence.)

Mr. Petteway: I also request leave to file with you—I am sure it will be here in the morning—a copy of the application on which this order is based.

Mr. Gwathmey: No objection.

Mr. Petteway: That will be permitted, I assume?

Comm. Patterson: Yes, when it gets here.

Exam. Mattingly: If we are still doing business in the morning we will accept it. If not, we will give a number when it gets in.

[fol. 779] By Mr. Petteway:

Q. Mr. Pettijohn, are you familiar with order No. 1485, Docket No. 1570, in the Florida Railroad Commission with reference to petroleum rates in tank cars?

A. I am.

Q. Do you recall when and how the rates approved by that order came into existence?

A. I do.

Mr. Gwathmey: Pardon me. Do you happen to have another copy of that order? I haven't got one.

Mr. Petteway: I have asked them to send me one. It ought to be here in the morning.

Comm. Patterson: We have to have one for the docket.

Exam. Mattingly: Are you going to put that in the record?

Mr. Petteway: We offer in evidence No——

Exam. Mattingly: No. 158.

Mr. Petteway: We offer in evidence No. 158.

Comm. Patterson: It will be received in evidence and identified as 158.

(Exhibit No. 158, Witness Pettijohn received in evidence.)

Mr. Petteway: I would like to supply the application on which that order was based.

By Mr. Petteway:

Q. Will you now explain the circumstances around those particular rates?

A. The morning we entered the hearing in our Docket 1574 which is a companion docket to ICC Ex Parte 166, the railroads through Mr. Hodgkins had a conference with [fol. 780] the Commission, at which time they asked the Commission to reduce rates on petroleum and products on distances up to 150 miles so that by applying 25 percent increase under Docket No. 1387 ICC Docket 162 and fur-

ther adding a 20 percent increase under our Docket 1574, ICC 166, the resulting mileage scale would be to all intents and purposes identical with the truck competitive scale prescribed in order No. 2387, Docket 1387, dated April 12, 1939, increased 20 percent and gave the reason for their request that they did not want to make an exception in the petroleum rates up to 150 miles in their petition for us under our Docket 1574.

Q. Now are you familiar with any applications that are present and pending with the Florida Railroad and Public Utilities Commission from motor tank truck operators in Florida?

A. Yes, sir, the two biggest motor truck operators before the State of Florida have now pending in the State of Florida for decrease on rates on petroleum and products, bunker C oil, between points in the State of Florida. The Docket has not as yet been set down for hearing.

Q. Are you familiar with the fact that some two years ago the Florida Railroad and Public Utilities Commission entered an order after hearing in which the rails and truck operators of tank trucks participated, in which the Florida [fol. 781] Commission froze the petroleum rates of the rail carriers and tank truck operators?

A. I am.

Q. Are you familiar with the fact the Florida Commission rescinded that freeze order?

A. I am.

Mr. Petteway: That's all.

Mr. Gwathmey: No questions.

Comm. Patterson: You are excused.

(Witness excused.)

Mr. Gwathmey: Mr. Hicks, will you take the stand?

E. C. Hicks, Jr., was recalled to the stand and testified further as follows:

Mr. Gwathmey: I have a few more exhibits. I have given them around to some people. I don't know whether anybody else wants them or not.

Mr. Commissioner, the testimony which Mr. Hicks will now offer has been prepared primarily for introduction into the I&S proceeding. But in view of the fact that it is in rebuttal of testimony which has been put in here by witnesses for the Sugar Corporation, we will ask leave to put this testimony in now. We also ask that this be covered,—or we will reproduce it if necessary, separately, in the I&S proceeding.

Comm. Patterson: Do you propose to put it in there as [fol. 782] rebuttal testimony in this 13 Section case?

Mr. Gwathmey: Yes, sir, rebutal of testimony of United States Sugar testimony.

By Mr. Gwathmey:

Q. Mr. Hicks, have you prepared in narrative form a statement of testimony which you now desire to introduce?

A. Yes, sir.

Mr. Gwathmey: May we have this identified as an exhibit, Mr. Commissioner?

Comm. Patterson: Yes, the number is 159 for identification.

(Respondent's Exhibit 159, Witness Hicks, marked for identification.)

By Mr. Gwathmey:

Q. Have you also prepared two separate exhibits, one being in the form of reproduction of certain tariffs and the other a statement showing as to all trains of sugar cane moving into Clewiston, Florida, during the last four grinding seasons with less than the tariff minimum of fifteen cars, the deficit in cars and in weight, together with the applicable penalty charge and what the penalty charge would have been if the proposed rates had been in effect?

A. Yes, sir.

Mr. Gwathmey: May we have these two statements, marked for identification?

Comm. Patterson: Which will be first?

Mr. Gwathmey: Reproduction of tariffs.

[fol. 783] Comm. Patterson: 160 and 161 for identification.

(Respondent's Exhibits 160 and 161, Witness Hicks, marked for identification.)

By Mr. Gwathmey:

Q. Were the exhibits that have just been identified prepared by you and under your direction and are the matters and things therein contained true to the best of your knowledge and belief?

A. With one slight modification I'd like to make in the testimony. Now, it may seem inconsistent that on Exhibit No. 160 it showed Witness Parson's name and mine has been substituted. But as a matter of fact, there is no preparation to this exhibit except merely reproduction of the two small tariffs. It was planned that Mr. Parson would introduce this and make certain appropriate remarks and the plans were changed, so I am introducing that exhibit.

Q. Do you have any further statement which you wish to make at this time?

A. Yes, sir. First, I'd like to turn to page 2 of Exhibit 159 and insert Exhibit No. 160 in the blank space at the foot of the page.

Mr. Gwathmey: May we go off the records to do this?

Comm. Patterson: Yes.

(Off the record.)

Comm. Patterson: On the record.

I think we had better defer examination. Just introduce [fols. 784-785] the exhibits.

Mr. Gwathmey: May I ask Exhibits 159, 160 and 161 be received?

Comm. Patterson: Let them be received.

(Respondent's Exhibits 159-161, inc., Witness Hicks, received in evidence.)

Mr. Hillyer: I make the same objections as I did on 29 and 30.

Comm. Patterson: Overruled. Did you want to say something?

Mr. Gwathmey: No, it is now overruled.

Comm. Patterson: We will recess now until nine o'clock in the morning.

(At 9:30 o'clock p. m., July 1, 1949, hearing was adjourned to 9:00 o'clock a. m. July 2, 1949.)

[fols. 786-787]

Ocean Room,
Sheraton Plaza Hotel,
Daytona Beach, Florida,
July 2, 1949.

Met pursuant to adjournment at 9:00 o'clock a. m.

[fol. 788] PROCEEDINGS

Commr. Patterson: I think Mr. Hicks was on the stand.

E. C. HICKS, JR., resumed the stand and testified further as follows:

Direct examination (Continued.)

By Mr. Gwathmey:

Q. Mr. Hicks, at the time of adjournment yesterday, you had introduced Exhibits 149, 160 and 161. Do you desire to make a brief oral statement of supplementary nature, particularly commenting upon certain testimony offered by witnesses for the Sugar Corporation?

A. Yes, sir, but before I do that I should like to complete the statement I had started about the slight modifications of the text in Exhibit No. 159. I was asked whether or not the matters stated therein were true to the best of my knowledge and belief and I made one or two comments in connection therewith. In addition, I should like to make a slight modification of page 3, the last paragraph.

Q. Of which exhibit?

A. 159, in which I said the principal difference between the tariff on file with the Florida Commission and the one filed with the Interstate Commerce Commission and now in suspension is that the rates in the exhibit will reflect those in the former, but increased under Ex Parte 166 and 162. There is another difference I should probably stress, and that is the rates in the tariff on file with the Florida Commis-

[fol. 789] sion are trainload rates while the rates in the suspended carrier——

By Commr. Patterson:

Q. You have been talking about trainload rates. There is no such thing. They are quantity rates.

A. That is what Mr. Hillyer called them. They are subject to a minimum of 15 cars per train.

Q. They don't haul them in by trains?

A. Well, I think as a practical matter the trains don't carry anything but cane, but if there was anything else there to carry they could. However, the rates on file with the Commission are not subject to 15 cars per load minimum.

By Mr. Gwathmey:

Q. You mean rates filed with the Interstate Commerce Commission and you now want to make it clear they are not published as trainload rates?

A. Yes, sir, not subject to a minimum of any given number of trains.

By Exam. Mattingly:

Q. Those rates in suspension in the I&S case?

A. Yes, sir. Another modification I should like to make is in connection with the statement contained in the last paragraph in the Exhibit, page 24 and 25. I note that this statement as made probably leaves the inference that the reason for the movement of so many trains of exactly 15 cars is that there was difficulty in getting together enough cars for that train and probably cars were held until they [fol. 790] could be assembled. My attention has been called to the fact that probably the reason for the greatest number of these 15-car movements is that the mill works at night in unloading the cars that have brought the cane in there, but the mill forces do not work at night in loading cars. There is a constant operation of unloading and the cars must be on hand. Well, of course, in unloading all night, a great many cars are made empty. So early each morning there is a long train of cars empty to go out and distribute at the various sidings. If that engine with the caboose came back light, there'd be a necessity of paying on a minimum of 15

cars for that movement. So on the preceding evening, although there may be 35 or 40 cars at some particular siding to move, the sugar company instructs the railroad to leave 15 of those cars and not bring them in on that train, although they could be brought on that train. So that early morning train, when it distributes the empties, when it comes in can pick up the 15, thus obviating the necessity of paying for 15 cars.

By Commr. Patterson:

Q. You run a caboose hop?

A. In order to get this rate they have to maintain a minimum of 15 cars in one train. If you put 30 in one train and run the caboose light with the next train you'd pay for a 15 car rate for hauling the caboose to the mill. But that is purely a matter of bookkeeping, whether they haul one 30-car or whether two fifteen, it would all come out in the end. [fol. 791] The expense.

By Exam. Mattingly:

Q. To whom? To the Sugar Company?

A. Yes, in one instance they'd be paying for 30 cars and in the other instance they'd be paying for 15 cars.

Q. It seems like they'd be paying for fifteen cars in one rate and 30 under the other.

Q. I guess that is right. They save money by leaving fifteen of them there. So actually, I think that accounts for a great number of 15 cars rather than as implied by 159 that they are just saving them to collect them up.

By Comm. Patterson:

Q. I don't see that has anything to do with this case.

A. I didn't want any misrepresentation and it might be considered important by some.

Now, with respect to the rebuttal, you asked about, Mr. Gwathmey, there were two or three statements made that I am sure I don't know whether they left that impression to everybody, but it left that impression with me that probably was not what was intended. One was the matter of taxes. While I don't think taxes—the amount of taxes paid

by the railroad or by the Sugar Company on the particular land along there has anything to do with these rates, nevertheless, I think the record should be straight. Mr. Pettijohn asked Mr. Patterson if it wasn't true that the increase of tax 1948 over 1947 wasn't something more than 100 per- [fol. 792] cent on the property of the Atlantic Coast Line Railroad in the sugar cane district covered the town of Clewiston only and did not include state and county taxes. Mr. Patterson didn't seem entirely sure. He was certain about the Clewiston part. But I would like to make it clear that the assessment, state and county, on the entire line of the Coast Line over which the sugar cane is handled was more than doubled 1948 over 1947.

One other matter that Mr. Patterson covered was that of tonnage transported during the last season, 1948-'49 season. He testified that the railroads moved into Clewiston 912,697.70 tons and was asked if that didn't include some town site cane. Perhaps I should explain in the immediate vicinity of the mill there is a good deal of cane grown on what is termed Clewiston town site. I am not sure all of that is in the city limits or whether it is in the immediate vicinity, at any rate, that cane does not move by rail. The mill is so arranged that the can- cannot be dumped from the fil-ed wagons into the hoppers, but must be loaded first into railroad cars and these cars are so constructed that they are adapted for dumping of cane. So the cane is transferred from the field wagon to the cars on the mill property by them, switched by the mill's engines to the dump for dumping.

At arriving at our tonnage figures for this year, I had two of our most careful clerks tabulate the weights shown on every one of the waybills. One man called the figures to the [fol. 793] other and he set them down and then to be sure there was no error, they read them back to each other. After that was done, the weights were totalled, not on a comptometer, but on an adding machine so they would have a tape and it was checked back so no possibility of any error could exist. However, when he got through with that, we found our totals were several thousand tons less than the tonnage figures furnished the railroad by the Sugar Corporation and as has been testified, tonnage figures are fur-